

STATE DEPARTMENT OF PUBLIC EDUCATION

**Audit of Special Education
January 20, 2003**

*Report to
the LEGISLATIVE FINANCE COMMITTEE*

LEGISLATIVE FINANCE COMMITTEE

Representative Luciano “Lucky” Varela, Chairman
Senator Ben D Altamirano, Vice-Chairman
Senator Sue F. Beffort
Senator Pete Campos
Senator Joseph Carraro
Representative Max Coll
Representative Larry A. Larranaga
Senator Linda Lopez
Senator Cisco McSorley
Senator Leonard Lee Rawson
Representative Henry “Kiki” Saavedra
Representative Nick L. Salazar
Senator John Arthur Smith
Representative Sandra L. Townsend
Representative Jeannette Wallace
Representative Donald L. Whitaker

DIRECTOR

David Abbey

DEPUTY DIRECTOR FOR BUDGET

Cathy Fernandez

DEPUTY DIRECTOR PERFORMANCE AUDIT

Manu Patel, CPA

AUDIT TEAM

G. Christine Chavez, CPA
LaVonne Cornett, CPA
Susan Fleischmann, CPA
Lorenzo Garcia, CPA
Alicia Ortiz
Edward Paz, CISA
J. Scott Roybal
Ron Sissel

State Department of Public Education
Audit of Special Education
January 20, 2003

Table of Contents	<u>Page No.</u>
Executive Summary	1
Review Information	7
Findings, Recommendations and Department Responses	
Cost of Special Education	9
Special Education Enrollment	12
Focused Monitoring	21
Complaint Investigations	25
Medicaid in the Schools (MITS)	27
Performance Goals and Indicators	29
Federal Financial Reports	32
School District Applications for IDEA Funding	34
Administrative Budget	35
Staff Turnover and Other Administrative Issues	36
Supply of Special Education Teachers	38
Exhibits	
Percent of Special Education Students to Total Membership SY02	1A
Percent of Special Education Students to Total Membership SY02 (highest to lowest)	1B
Percent of Special Education Budget to Total Budget SY02	2A
Percent of Special Education Budget to Total Budget SY02 (highest to lowest)	2B
Federal Definitions of Disabilities	3
Number and Percent of Special Education Students Considered Limited English Proficient	4
Sample of School District SEG Funding Estimate	5

EXECUTIVE SUMMARY

State Department of Public Education

Audit of Special Education

Legislative Finance Committee

January 20, 2003

Objective

Determine the extent of State Department of Public Education (SDE) monitoring, oversight and corrective action established for proper eligibility identification of special education students for enhanced state equalization guarantee funding.

Results

The special education program is in transition as a result of the No Child Left Behind Act, pending reauthorization of the Individuals with Disabilities Education Act (IDEA) and state initiatives to reduce the need for referrals to special education and improve program performance.

The results of this audit indicate that the state may over-identify special education students. In the past monitoring, oversight and enforcement of corrective action has been weak. It is hoped that the initiatives implemented by SDE will improve enforcement and compliance.

The most significant initiative implemented at the state level for monitoring school districts compliance with special education federal and state regulations is focused monitoring. A group of state-wide stakeholders identified four key indicators. For each school year, the Accountability Data System (ADS) and data from test publishers is used to analyze school districts' variances from state-wide averages on these four indicators:

- time spent in regular classroom
- percent of students identified as specific learning disabled (SLD)
- participation in state-wide assessment
- performance on state-wide assessment.

The more significant the variance the more likely the school district will be selected for a monitoring visit that year. Additionally, three or four school districts are selected yearly at random for a visit.

As a result of these visits, school districts are required to provide a corrective action plan and progress reports detailing evidence of change. School districts have two years to provide evidence of improvement. Special education unit staff monitor and review corrective action plans and progress reports.

The findings included in the focus monitoring reports indicate that school districts did not provide evidence of compliance with IDEA regulations regarding:

- eligibility determination pertaining to lack of instruction in reading or math and LEP.
- evaluation of LEP students resulting in over-identification of students with SLD.
- development, review or revision of the individualized education program (IEP).

The focused monitoring reports also identify ineffective pre-referral interventions which result in over-identification and lack of evidence that students are served in the least restrictive environment.

School Year (SY) 02 was the pilot year for focused monitoring. Thirteen school districts were visited.

In SY03, 14 school districts will be visited. The process is being refined as more experience is gained. Sanctions for non-compliance with corrective action plans are expected to be released in mid January 2003. They were not available for review prior to release of this report.

Other initiatives implemented include:

T **School district continuous improvement** - focused monitoring will be incorporated into the IDEA-B application process by requiring school districts submit improvement activities with their application for funding.

T **Transition** - a project to get 14 year old students to plan for the next four years in high school and 16 year old students to network with the Division of Vocational Rehabilitation (DVR) and post secondary education institutions. Currently 36 school districts are participating in this project.

T **Behavioral intervention** - looks at school climate and culture for school-wide positive behavior support. Teams are trained to identify behaviors and work with students to reduce referral to special education. Thirty-four schools are participating in this project.

T **Reading** - improve reading and help reduce referrals to special education. The state has been awarded a six year grant in which approximately \$8.4 million will be received each year for this project.

T **Gifted** - pilots different testing techniques to properly identify gifted students, improve the quality of instruction and improve the number of minorities in the gifted program.

T **Alternative Assessment** - used to assess students when the IEP indicates an alternative assessment is recommended. The

goal is to ensure that all students are accounted for and making progress.

T **Least Restrictive Environment (LRE)** - several activities to support and encourage provision of educational services in the least restrictive environment which includes: intensive training of 25 educators to function as trainers/coaches, technical assistance to school districts, and development of a placement pamphlet and best practice document.

T **Funding formula** - the state board of education is considering a study, among other things, to determine if the current formula creates an incentive for over-identification.

T **Teacher shortage** - a group is developing a plan to recruit and train qualified teachers. They are also working with colleges and universities.

T **Parent Liaison** - one full time equivalent (FTE) is dedicated to provide assistance to parents regarding delivery of special education services to resolve issues as soon as possible. A parent handbook was also developed. The Parent and Child Rights in Special Education provides procedural safeguards.

It is too early to tell if state initiatives will be successful. Factors such as state board of education support, SDE management support, school district compliance and SDE enforcement will impact the success or failure of these initiatives.

HIGHLIGHTS

The level of state funding on the special education program has increased by \$98 million (43%), in real dollars, since fiscal year (FY) 98 while the average daily membership in the special education

Legislative Finance Committee Audit of Special Education - State Department of Public Education

program increased by 3,155 (5%) students. The level of federal funding increased by almost \$24 million (123%) from FY98 to FY02.

Since 1998 total special education funding has increased by \$122 million or 49 percent. New Mexico funds approximately 88 percent of special education costs.

Although the federal government is a key player in the delivery of special education programs, New Mexico funds the majority of program costs (approximately 88%). The following table provides total funding levels for the last five years.

	Federal Flow-Thru	State Funding	Total Funding
FY02	\$43,771,863	\$326,708,806	\$370,480,669
FY01	\$33,566,298	\$299,082,134	\$332,648,432
FY00	\$28,862,077	\$275,783,958	\$304,646,035
FY99	\$24,824,142	\$262,774,130	\$287,598,272
FY98	\$19,652,693	\$229,127,550	\$248,780,243

Using 2001-2002 average membership/unit data provided by SDE, which includes gifted programs, students placed in A/B and C programs represent 75 percent of the special education membership. Applying the cost differential to students membership, D level programs and 3 and 4 year olds with developmental disabilities represent 46 percent of the funding units which results in higher SEG funding for the school districts.

75 percent of special education students receive minimal, moderate or extensive level of service. 46 percent of the funding goes to students receiving maximum level of service which generates more SEG funding.

The majority of special education expenditures specifically identified and reported to SDE by school districts are personnel costs, contractual services and IDEA-B expenditures. For FY02 these expenditures account for 95 percent (\$354.2 million) of total special education revenue allocated to the school districts. The remaining five percent (\$16.2 million) is not specifically identified by school districts but may account for central administrative costs, supplies and materials, and equipment.

Based on reported special education expenditures, there appear to be extreme variations between school districts in the additional amounts spent per special education student from no additional dollars reported to \$37,610 per student. Variations appear to be greater in smaller school districts and less in larger school districts which is consistent with national trends. Exhibits 1 and 2 provide special education membership and expenditure data.

Using expenditure data provided by SDE, approximately \$9,826 was spent to educate each special education student in New Mexico which appears to be \$2,616 less than the national average. New Mexico is one of a few states that funds gifted through the special education program.

New Mexico spends \$9,826 to educate each special education student.

Performance of special education students on the Terra Nova was analyzed to determine if increased funding affected student performance. In 20 of 35 cases, Terra Nova scores improved from SY01 to SY02, most notably and consistently across all test areas for grades six through eight. Unfortunately, test data was only available for SY01 and SY02. Therefore, it cannot be determined whether the general improvement is a result of increased funding for one fiscal year or a cumulative result showing a general trend over several years. However, of concern is the significant drop in science and social studies in the third, fourth, fifth and ninth graders' scores and in math in third, fourth and fifth graders, scores.

New Mexico special education membership averages approximately 20 percent of the total student membership. Excluding gifted students, special education membership drops to 17 percent. The state is substantially higher than other western states and the national average of about 12 percent. This may be an indication of over-identification of students needing special education services.

An analysis of the make-up of the special education population as reported in ADS for SY01 and SY02 indicates:

- 51 percent are Hispanics
- 31 percent are Caucasians.
- 53 percent are SLD.
- 19 percent are gifted.
- 66 percent are males, excluding gifted.
- 50 percent of Native Americans considered SLD are also identified as LEP.

Areas for Improvement

- Ö The current funding formula may create an incentive for over-identification. Over-identification may be occurring among the male population, Native Americans also identified as limited English proficient (LEP), students in SLD and gifted categories. The number of students placed in special education programs has a direct

impact on state equalization guarantee (SEG) funding.

From SY95 to SY02 the special education population grew by 18 percent while the total student population decreased by 2.8 percent.

There is concern nationally with over-identification of students with disabilities because some funding formulas promote incentives for over-identification, especially those that fund based on level of disability. Research indicates that school districts are often forced to place students in special education because general education does not have the programs necessary to assist students with learning disabilities or behavioral problems. Special education provides these resources. Once a student is placed in special education it is highly unlikely he/she will return to general education.



Study the Current Funding Formula

Initiate the study of the current funding formula to address the issue of whether the formula creates an incentive for over-identification of students with disabilities. The study should determine if there is a need to shift resources from special education into general education if over-identification is occurring.

- Ö The special education unit comprised of 21 FTE experienced a 63.6 percent turnover in 2001. In 2001 three people were performing most of the duties in the special education unit for several months. Most of the current staff has been with the special education unit 18 months. Three positions were reclassified to allow for the hiring of attorneys to handle complaint investigations and hire a data base analyst. However, significant delays prevented timely filling of these vacancies.

★ **Fill Vacancies Timely**

Fill vacancies timely to improve SDE's effectiveness in monitoring and oversight and reduce inefficiency by eliminating the need for remaining staff to perform necessary job functions created by vacancies.

- Ö The special education unit appears to be inadequately staffed in some areas. Focused monitoring, complaint investigation and fiscal administration appear to be understaffed. This lack of resources effects the quality and thoroughness of monitoring and oversight the special education unit is able to perform.

Two FTE are assigned to focused monitoring. These individuals assist on focused monitoring teams, review focused monitoring reports, review and monitor corrective action plans and progress reports, visit school districts to ensure corrective action implementation and provide general technical assistance. As of October 2002 approximately half of the 13 focused monitoring reports for SY02 visits had been released.

One FTE is currently assigned to complaint investigations with two FTE assisting part-time. One of the two part-time FTE is assigned to enforce corrective action plans and is the parent liaison. Approximately 50 complaints are filed each year which must be investigated and reported within 60 days of receipt. As of November 2002 seven investigations missed the 60-day reporting period.

Basically, one FTE is assigned to process all program-level documentation related to state and federal special education funding for 89 school districts and eight state supported educational programs, in addition to other management, technical assistance and data responsibilities.

★ **Conduct a Management Study**

Conduct a management study to identify opportunities to streamline operations and reallocate staff to increase effectiveness by improving the level of monitoring and oversight required by SDE and the special education unit which monitors a \$370 million program with over 800 federal and state compliance requirements.

- Ö The number of school districts participating in Medicaid in the Schools (MITS) has decreased and cost reimbursement to school districts has dropped 50 percent from SY00 to SY02 because of a dispute regarding administrative costs. Discussions between school districts and the Human Services Department (HSD) regarding this issue deteriorated to the point that HSD eliminated reimbursement of administrative costs.

★ **Resolve Issues Surrounding MITS**

Resolve issues surrounding MITS as soon as possible. As recommended in the LFC audit of MITS, by compromising on the type of services allowed under MITS and improving the relationship between the school districts, SDE and HSD may increase the level of services provided to disadvantaged students and the level of federal funding leveraged.

- Ö This audit and several other previous audits conducted by the LFC in previous years, report that SDE has not developed written policies and procedures in numerous areas. The significant turnover SDE had in the last few years has resulted in late federal financial reports, late financial audits, release of funds to school districts without ensuring availability of funds in SDE accounts, the inability to adequately monitor school district finances and significant time and effort in training new staff.

★ **Develop Written Policies and Procedures**

Develop written policies and procedures for monitoring, technical assistance and fiscal management and oversight to reduce SDE's vulnerability regarding accurate and timely program and fiscal management and reporting as well as improve efficiency when key employees leave SDE or significant staff turnover occurs.

- Ö SDE provided school districts with guidelines regarding administration of the alternative assessment. However, for two years school districts did not follow the guidelines. Some school districts only administered one or two parts of a four part assessment even though all four parts are required to be administered. This instance of non-compliance along with others rendered a good portion of the test results invalid.

It is likely the number of alternative assessments administered to special education students will increase due to the high stakes attached to student achievement. School districts may be concerned with the effect inclusion of special education student assessment results will have on overall student performance thereby administering the alternative assessment rather than the standard assessment.

★ **Place Responsibility on Principals for Compliance with Assessment Guidelines**

Place responsibility on school district principals for compliance with SDE assessment guidelines rather than merely meeting a quota regarding the number of students assessed to improve the quality of assessment results. Administering appropriate assessments will provide an indication of the level of instruction necessary to provide these students the tools necessary to be successful in the future.

★ **Closely Monitor Assessment Activities**

Closely monitor assessment activities to ensure all students are adequately assessed using the proper instrument.

- Ö Special education teacher waivers average 47 percent of the total waivers issued state-wide. With implementation of the No Child Left Behind Act waivers will not be acceptable.

★ **Improve Teacher Recruitment and Training Strategies**

Continue to work on methods to recruit and train special education teachers and to address the overall teacher shortage.

Background. In the mid-sixties, the Legislature recognized the need to educate handicapped children and provided for additional instructors. In the early seventies two memorials were passed; one requested the Legislative Education Study Committee conduct a study of existing special education programs and the other requested the state board of education and local boards of education provide special education instructional programs no later than September 1973 in every school district where children are identified as being in need of such programs.

In 1975 the federal Education for All Handicapped Children Act (P.L. 94-192) was passed. The Act provided programs and related services for students with disabilities as a national system of service. In 1990 P.L. 94-192 was reauthorized as the Individuals with Disabilities Education Act (IDEA). The fiscal portion of the Act is a state grant-in-aid program, permanently authorized under Part B requiring participating states to make available to children with disabilities determined eligible under the Act a free appropriate public education in the least restrictive environment (LRE).

Section 22-8-21 NMSA 1978, Special Education Program Units subsection A states: "For the purpose of the Public School Finance Act..., special education programs for exceptional children are those approved by the department and classified as follows..."

<u>Program</u>	<u>Special Education</u>	<u>Cost Differential</u>
Class A	minimal	.7
Class B	moderate	.7
Class C	extensive	1.0
Class D	maximum	2.0
Three-and four-year olds with developmental disabilities	maximum	2.0

The number of special education program units is the sum of membership in each approved class

multiplied by the corresponding cost differential. For related services, the number of FTE certified or licensed ancillary service and diagnostic service personnel is multiplied by 25.0.

Effective July 1, 2000 special education program units are calculated using an average of the membership on the 40th, 80th and 120th days of the prior year.

Authority for Review. The Legislative Finance Committee (LFC) has the statutory authority under Section 2-5-3 NMSA 1978 to examine laws governing the finances and operations of departments, agencies and institutions of New Mexico and all of its political subdivisions, the effects of laws on the proper functioning of these governmental units and the policies and costs of governmental units as related to the laws, and to make recommended changes to the Legislature. In the furtherance of its statutory responsibility, the LFC may conduct inquiries into specific transactions affecting the operating policies and cost of governmental units and their compliance with state law.

Procedures.

Review of laws and regulations.
Review of reports issued by other agencies.
Interview SDE special education staff.
Analysis of ADS database.
Review of special education program and administrative budget and expenditures.
Review of focused monitoring reports, corrective action documents and progress reports.
Review of complaint investigation reports and corrective action.
Review of state plan, school district applications for IDEA-B funds, federal financial reports, and federal program reports.

Scope. Data and documentation was reviewed as follows:

- ADS data SY99 through SY02
- Parity and growth data SY95 through SY02

- Administrative and school district budget and school district expenditures FY98 through FY02

Audit Team Members.

Manu Patel, Performance Audit Manager
G. Christine Chavez, Senior Performance Auditor
LaVonne Cornett, Senior Performance Auditor
Alicia Ortiz, Performance Auditor

Exit Conference. An exit conference was held January 13, 2003, those in attendance included: Michael Davis, State Superintendent; Steve Sanchez, SDE Interim Director Learning Services Division, Sam Howarth, SDE Director Special Education Division, Bonnie Anderson, SDE Fiscal and Data Consultant Special Education Division; Representative Luciano “Lucky” Varela, LFC Chairman; David Abbey, LFC Director; Manu Patel, LFC Performance Audit Manager; G. Christine Chavez, LFC Senior Performance Auditor; and LaVonne Cornett, LFC Senior Performance Auditor.

Distribution of Report. This report is intended for the information of the State Board of Education, State Department of Public Education, Office of the State Auditor, Department of Finance and Administration, Legislative Education Study Committee and the Legislative Finance Committee. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Findings and Recommendations

Costs of Special Education. Special education program funding has increased \$122 (49%) million from FY98 to FY02. Most of the revenue growth came from State funding sources (approximately \$98 million). State-wide funded membership grew by 3,155 (5%) from 60,517 to 63,672. State-wide special education membership averages approximately 20 percent of total student membership annually. Excluding gifted membership, the average drops to 17 percent. The national average is around 12 to 13 percent.

Fiscal Year	Federal Flow-Thru	State Funding	Total Funding
FY02	\$43,771,863	\$326,708,806	\$370,480,669
FY01	\$33,566,298	\$299,082,134	\$332,648,432
FY00	\$28,862,077	\$275,783,958	\$304,646,035
FY99	\$24,824,142	\$262,774,130	\$287,598,272
FY98	\$19,652,693	\$229,127,550	\$248,780,243

The level of state and federal funding on the special education program increased by \$122 million (43%) and \$24 million (123%) respectively from FY98 to FY02. However, the number of students placed in the special education program increased 3,155 (5%) while total student population decreased 2.8 percent. Total special education expenditures specifically identified and reported to SDE by school districts accounted for 95.4 percent (\$354.2 million) of the special education funding. The remaining 4.6 percent (\$16.2 million) of special education expenditures are not specifically identified. Also, the school districts currently do not specifically track, allocate and report common costs such as central administrative costs, utilities, classroom supplies, etc. by each program which may account for this difference. It should be noted that SDE and the school districts are in the process of implementing a performance based budgeting system which has the capability to identify and report costs at individual school and classroom level.

Costs identified with special education programs for each of the school districts were extracted from statistical data provided by SDE for FY98 through FY02. Average spending per special education student (including gifted) increased \$1,327 (31%) statewide from \$4,237 (FY98) to \$5,564 (FY02). Special education costs include personnel, contractual services and IDEA-B expenses. However, costs associated with gifted cannot be identified.

There appear to be extreme variations between school districts in amounts spent per student from no additional dollars being reported to \$37,610 being reported by one charter school in FY01. The school budget and finance analysis unit was asked to investigate the accuracy of the data and/or provide an explanation, but a response was not received prior to the report date. Variation appears to be greater in smaller school districts and less in the larger school districts. There is also substantially more variation within the smaller school districts from year to year than the larger districts such as Albuquerque and Las Cruces. Comparison of special education membership to total membership and special education program budget to the total budget by district is provided in Exhibits 1 and 2.

Attempts were made to obtain data related to other states' expenditures and funding of special education programs, but such data is difficult to obtain. In recent years, the National Center for Special Education Finance (CSEF) has published a series of papers related to special education finance. In a June 2001 paper, *Special Education Finance*, CSEF indicates that "exact current expenditures are unknown...because the states

were last required to report...for the 1987-88 school year and because the last independent national special education cost study, completed in 1988, was based on data from the 1985-86 school year.”

However, CSEF set up the Special Education Expenditure Project (SEEP) which has conducted several studies in an attempt to alleviate the lack of financial data for special education programs. SEEP surveyed the 50 states and the District of Columbia for the 1999-2000 school year and in March 2002 released a report *What Are We Spending on Special Education Services in the United States, 1999-2000?* SEEP estimates that an average of \$6,556 is spent on every student with an additional \$5,918 spent on special education students nation-wide for a total of \$12, 474. In the 1985-1986 school year, the total national average was \$9,858. However, information was not available to determine what is included in school district expenditures used to calculate the nation-wide per student cost of \$12,474.

Although SEEP did not report statistical data of individual states, 1999-2000 total expenditures per student is estimated at \$5,955 using data provided by SDE’s school budget and finance analysis unit. Approximately \$9,826 (\$4,999 regular plus \$4,827 special education) was spent to educate each special education student in New Mexico which is \$2,616 (21 %) less than the national average. Average additional spending for special education is approximately 82 percent of the national average (\$5,918-\$4,827 difference of \$1,091). Base (regular) spending for all New Mexico students also appears to be below national spending estimated at 76 percent of national spending (\$6,556-\$4,999) as calculated below, excluding debt service and capital expenditures. However, only identified special education expense was used to estimate cost.

FY00 School District Reported Expenditures

		Total Expenditures	Special Education Expenditures	Net (Estimated Regular Expenditures)
A	General Fund Expenditures	\$1,598,228,311	\$271,360,424	\$1,326,867,887
B	Special Revenue Fund Expenditures (including federal funds)	\$ 287,424,746	\$31,560,034	\$ 255,864,712
C	Total Expenditures	\$1,885,653,057	\$302,920,458	\$1,582,732,599
D	Number of students	316,633	62,751	316,633
E	Average spent per student (C/D)	\$ 5,955	\$ 4,827	\$ 4,999
F	National average		\$5,918	\$ 6,556
G	Difference (E-F)		\$(1,091)	\$(1,557)
H	Percentage difference (G/F)		(18.4%)	(23.7%)

Growth in special education membership was also compared. State-wide membership grew by 3,155 from FY98 to FY02, (5%) 60,517 to 63,672. As is the case with regard to cost per student, there was more variation in smaller school districts and between fiscal years within smaller school districts. State-wide special education membership averages approximately 20 percent of total student membership annually. Again, there is significant variation among the smaller school districts. However, New Mexico is substantially higher than other western states and the national average of about 12 to 13 percent. New Mexico is one of a few states that includes gifted in the special education program. The number of gifted students is approximately 12,000. When gifted membership is removed, New Mexico’s average special education membership drops to 17 percent, but is still higher than the national average.

SDE has only begun to keep annual statistics as to the effectiveness of special education programs. SDE provided data for FY02 and FY01 special education (no test accommodations made) which suggests that increased spending has been effective in helping students, particularly for special education students in grades six through eight.

**Comparison Terra Nova (1996 Norms) Test Results for
Non-Accommodated Special Education Students SY02 and SY01**

Grade-Year	Reading	Language	Math	Science	Social Studies
03-2002	34.3	34.3	37.4	35.0	36.7
03-2001	34.9	32.3	39.1	38.1	39.0
04-2002	36.5	34.8	33.9	37.3	36.5
04-2001	38.4	35.2	38.6	37.8	43.5
05-2002	36.9	35.8	31.3	35.8	31.6
05-2001	32.3	25.9	33.7	38.4	37.7
06-2002	39.4	36.8	31.9	39.8	31.5
06-2001	23.8	24.7	26.5	32.8	28.8
07-2002	32.5	34.0	26.6	34.9	34.6
07-2001	23.6	22.7	24.0	30.1	28.8
08-2002	34.4	30.6	28.9	39.7	31.9
08-2001	28.6	24.2	23.5	35.4	30.3
09-2002	21.3	21.9	14.6	20.3	19.6
09-2001	20.5	18.5	14.9	24.2	24.0

In 20 of 35 cases (57%), Terra Nova scores have increased from SY01 to SY02, most notably and consistently across all test areas for grades six through nine. This may suggest a correlation between funding increases and improved test scores for special education students. Unfortunately, data is not available for school years before SY01. Therefore it cannot be determined whether the general improvement is a result of increased funding for one fiscal year or a cumulative result showing a general trend over several years. However, of concern is the significant drop in science and social studies in third through fifth grader and ninth grader scores, math scores in grades three, four and five and reading and language scores in grade four.

SDE staff could not provide exact comparisons with nation-wide statistics. In addition data available to the school budget and finance analysis unit which would be of use to special education staff does not appear to be shared. Nor could school budget and finance analysis unit staff adequately explain the source of and how certain reports are compiled due to the turnover in staff and lack of experience of current staff. It is hoped that performance based budgeting, and hiring and training of qualified staff will eliminate this problem.

Recommendations:

- < Investigate the reasonableness of large differences between school districts. Once performance based budgeting is implemented at the school district level, determine if appropriate intervention strategies are required.
- < Investigate whether New Mexico over-identifies students needing special education services and potential explanations for the higher percentage of special education students.

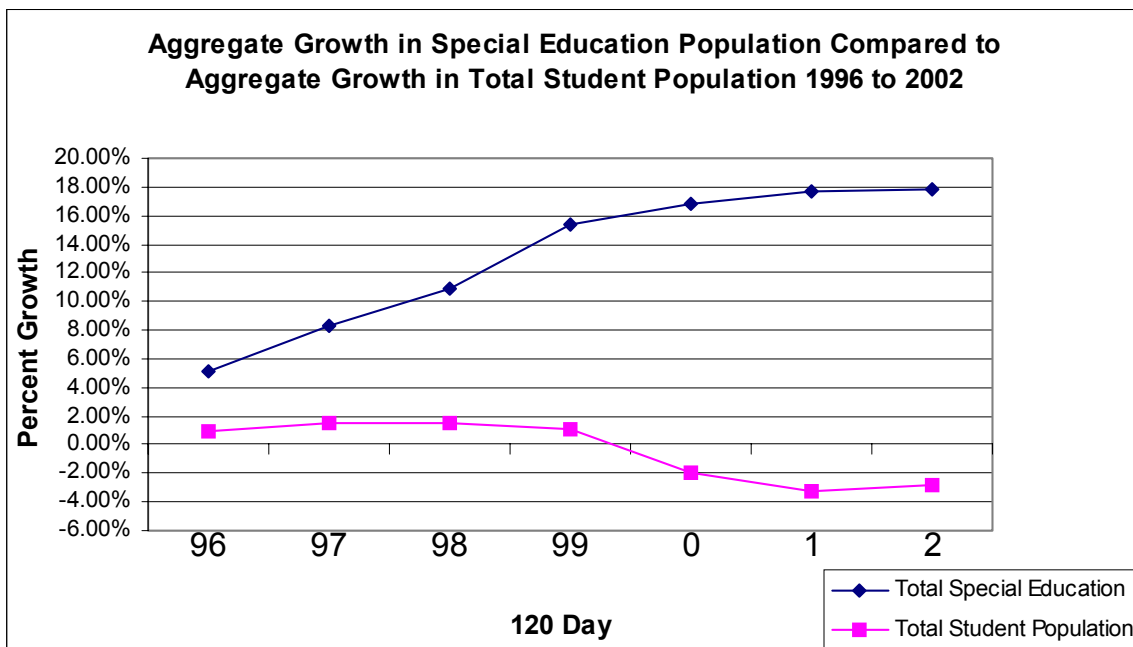
- < Continue efforts to obtain annual data on effectiveness of special education spending. Perform analyses to ascertain effectiveness.
- < Complete timely hiring and training of new staff.

Department Response:

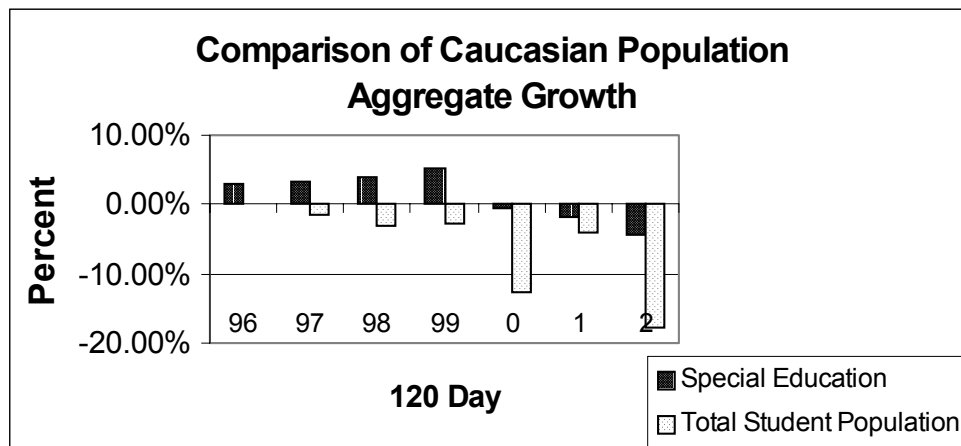
- There may be situations where variations among districts are appropriate, and performance-based budgeting may provide additional insight into these variations.
- The special education unit concurs with the audit finding related to possible over-identification of students needing special education services and is working collaboratively with other SDE units 1) to implement improved reading instruction for all students in New Mexico and 2) to undertake a study of the funding formula.
- The special education unit has recently hired a computer systems analyst to increase the quality of data analysis related to special education program effectiveness. An analysis of these data will assist the special education unit in implementing initiatives to continually improve outcomes for students receiving special education services.
- SDE is required to work with the State Personnel Office, the Department of Labor, and the Department of Finance Administration on posting and filling vacancies. SDE is committed to filling vacancies in a timely manner.

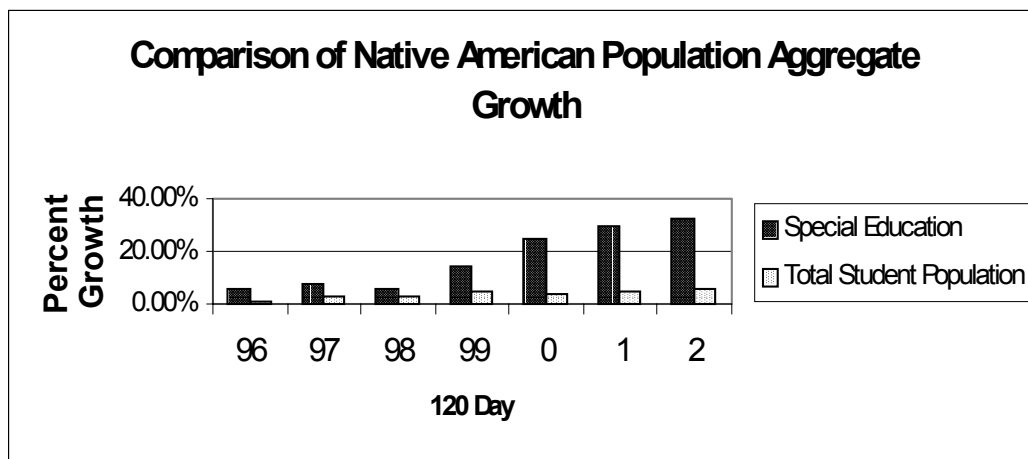
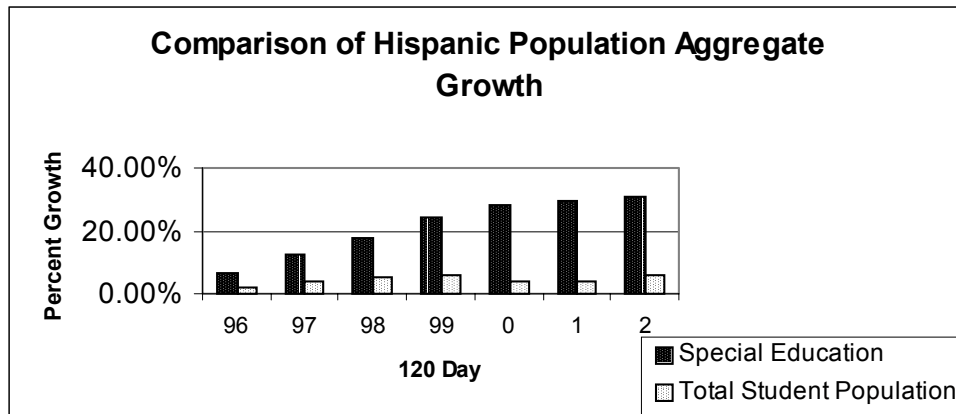
Special Education Enrollment. Analysis of program reports and ADS special education data for SY01 and SY02 indicates that there may be over-identification or misidentification of special education students in certain disability categories which has a direct impact on state equalization guarantee (SEG) funding. The current funding formula may contribute to over-identification of special education students. Disability definitions are provided in Exhibit 3.

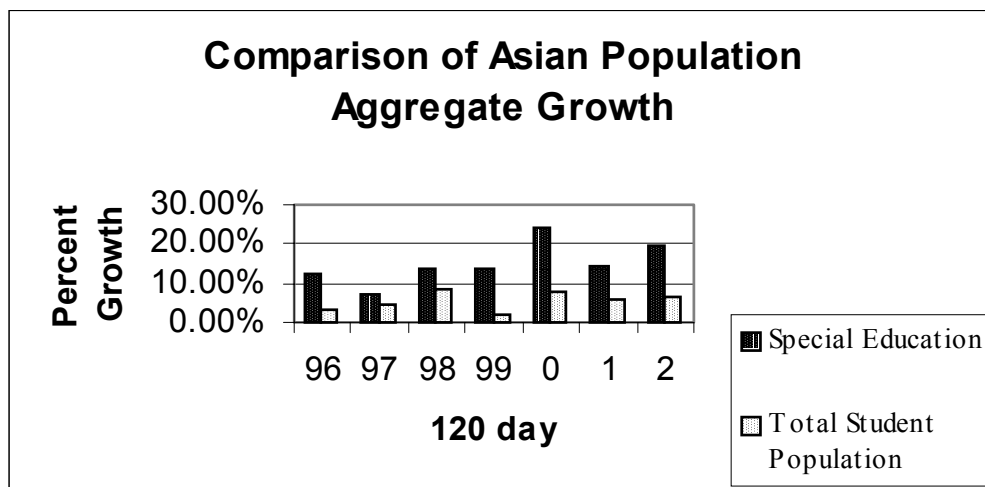
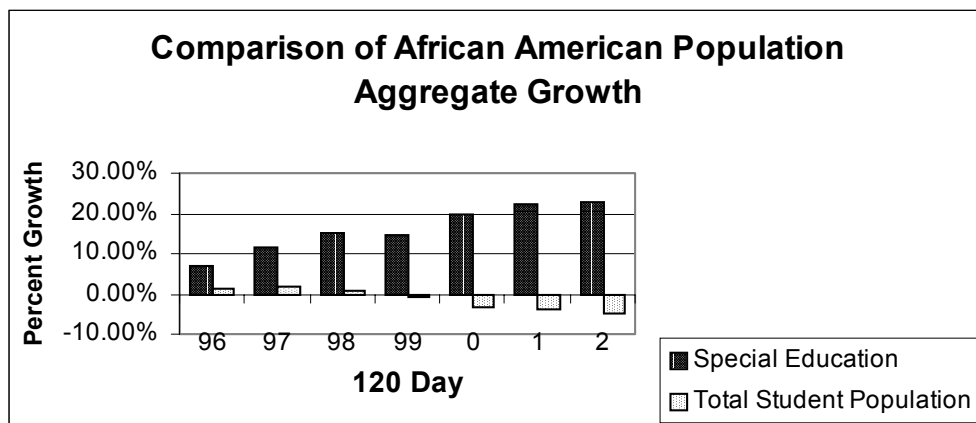
Analysis of the *Over/Under Representation - Ethnicity Data Report* for the last seven years indicates that the special education student growth rate is inconsistent with the growth rate of the entire student population. The special education population, excluding gifted students, grew by 17.8 percent while the total population decreased by 2.8 percent from SY96 to SY02. The most recent national data provided in the U.S. Department of Education Office of Special Education Program's (OSEP) *23rd Annual Report to Congress*, U.S. Department of Education 2001 indicates that the rate of growth in the number of children ages six through 21 with disabilities served under IDEA-B grew by 30.3 percent from 1990-1991 to 1999-2000, which exceeds the rate of growth of 12.2 percent for total student enrollment for that same age group.



The following graphs compare the aggregate growth rate of special education students by ethnic group to the aggregate growth rate of the state-wide student population by ethnic group. The rate of growth in special education has increased while the rate of growth in total student population has decreased or remained stable for some ethnic groups.







Source
Over/Under Representation - Ethnicity Data Report 1995 through 2002 120 day count.

Legislative Finance Committee Audit of Special Education - State Department of Public Education

The ethnic representation of students in special education programs is consistent with their representation within the entire student population, except for African American students whose representation in special education exceeds the 20 percent variance allowed by federal guidelines and Asian students whose representation is below the 20 percent variance.

Ethnic Representation of Special Education Programs Compared to Total Student Population 1995 to 2002

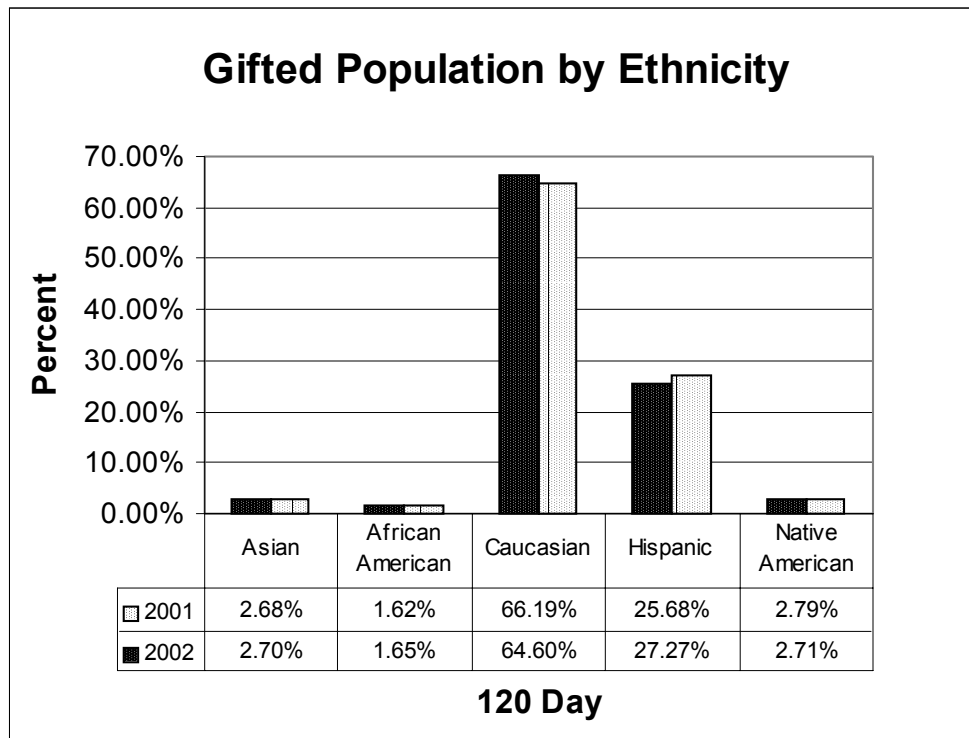
Ethnic Group		1995	1996	1997	1998	1999	2000	2001	2002
CAUCASIAN	Percent in Special Education	39.20	38.46	37.45	36.86	35.86	33.48	32.84	31.89
	Percent in Total Student Population	39.85	39.46	38.64	38.06	37.16	35.52	34.53	33.68
HISPANIC	Percent in Special Education	46.30	46.99	48.20	49.14	49.85	50.70	50.97	51.48
	Percent in Total Student Population	46.42	46.76	47.51	48.00	48.79	49.33	49.99	50.66
NATIVE AMERICAN	Percent in Special Education	10.87	10.94	10.75	10.34	10.81	11.63	11.99	12.25
	Percent in Total Student Population	10.40	10.42	10.49	10.57	10.76	11.02	11.26	11.33
AFRICAN AMERICANS	Percent in Special Education	2.98	3.03	3.07	3.10	2.95	3.06	3.10	3.10
	Percent in Total Student Population	2.37	2.38	2.37	2.35	2.33	2.33	2.36	2.32
ASIAN	Percent in Special Education	.54	.58	.53	.55	.52	.57	.52	.55
	Percent in Total Student Population	.96	.98	.98	1.02	.97	1.05	1.05	1.05

The disability breakdown for the 120th day reporting period by school year for two years using ADS data is presented in the following table. SLD students make up approximately 44 percent of the special education population and gifted students make up 19 percent. Eliminating gifted, SLD makes up 53 percent of the student population compared to the national average of 50.5 percent as reported by OSEP in its annual report.

Special Education Student Population by Disability

Disability	SY01	SY02
Autistic	235	287
Deaf/Blind	19	9
Developmentally Delayed	4,936	5,048
Emotionally Disturbed	3,152	2,884
Gifted	12,418	12,127
Hearing Impaired	535	536
Intellectually Delayed/ Mentally Retarded	1,939	1,868
Multi-Disabled	1,148	1,158
Other Health Impaired	2,166	2,291
Orthopedically Impaired	282	263
Speech/Lang Impaired	10,549	9,987
Specific Learning Disabled	29,058	28,111
Traumatic Brain Injury	225	223
Visually Impaired	197	189
TOTAL	66,859	64,981

The ethnic make-up of the gifted student population is of serious concern. Caucasian students make up approximately 65 percent of the gifted population while their representation in the total population is 33.68 percent. Hispanics, Native American and African Americans appear to be significantly under-represented. Refer to the table on page 16 for the ethnic representation of the total student population compared to gifted representation in the following graph. According to SDE staff, there may be some over-identification of gifted students because of instruments used to identify gifted. New testing instruments are being piloted to address this issue. Gifted students are funded in the same manner as other special education programs, based on service level. Information provided by SDE indicates that 97 percent of the gifted students are in A/B programs which has a cost differential of .7. A gifted student receiving instruction in Class D which is maximum level of service has a cost differential of 2.0. There are 58 students in this program level representing .4 percent of the gifted population.



An analysis of special education students identified as limited English proficient (LEP) and their disability using SY01 and SY02 ADS December 1 reporting period data indicates that approximately 19 percent of the special education student population is identified as LEP compared to 20 percent of the total student population. The Native American special education population identified as LEP is five percent greater than the rate of LEP students in the total student population (45 percent versus 40 percent respectively). This suggests possible over-identification and noncompliance with IDEA-B regulations. Refer to Exhibit 4

In OSEP's 23rd Annual Report to Congress the Office of Civil Rights reported that five and one-half percent of all students enrolled in LEP services also had a disability (U.S. Department of Education, 1999). According to OSEP "...standardized assessments often prove invalid predictors of a LEP student's true functioning levels. Thus, the tests may become a measure of the student's English language proficiency and knowledge of mainstream culture rather than a measure of academic potential ... Only after documenting problematic behaviors in the primary language and in English, and eliminating extrinsic variables as the cause of these problems, should the possibility of the presence of a language/learning disability be considered..."

ADS December 1 reported data indicates that males represent approximately 64 percent of the special education population in SY01 and SY02. Deaf/Blind is the only disability category in which females outnumber males. Male representation in the total student population is 51 percent for both SYs. Therefore, males are over-represented in special education. SLD has the highest male representation followed by gifted (G), speech/language impaired (SL), emotionally disturbed (ED), and developmentally disabled (DD) in that order. Eliminating the gifted students, males represent 66 percent of the special education population.

School Year	Total Special Education Student Population	Female	% Female	Male	% Male
SY00-01	66,859	24,031	35.9%	42,828	64.1%
SY01-02	64,981	23,460	36.1%	41,521	63.9%

According to ADS December 1 reported data, ninth graders comprise the largest group of special education students. The most common disability categories of ninth graders are SLD, gifted (G), emotionally disturbed (ED) and speech/language impaired (SL).

Special education students are served in mainly three school settings (1) general education, (2) resource room, and (3) separate setting. According to tables included in OSEP 23rd *Annual Report to Congress* New Mexico varies significantly from the national base line for two school settings.

Setting	National	New Mexico
Outside regular class <21%	47%	29%
Separate setting>60%	20%	37%

The small percentage of students returning to general education may be indicative of the state equalization guarantee funding formula providing additional funding for special education students. Other contributing factors may be increased administrative responsibilities for special education (paper work and IEP meetings) which have reduced the amount of time devoted to quality instruction, hence students returning back to general education is impacted. It appears that once a student is placed in special education he/she is likely to remain there.

School Year	Special Education Population	Number of Students Returned to General Education	Percent of Special education Population Returned to General Education
SY01	66,859	2,074	3%
SY02	64,981	3,312	5%

New Mexico's state equalization guarantee funding formula provides special education funding to school districts based on membership in special education programs approved by SDE in class A, B, C, D and three and four year old with developmental disabilities. A cost differential is associated with these classes based on the level of special education services required (minimal, moderate, extensive and maximum). The number of funded special education program units is the sum of membership in each approved class multiplied by the corresponding cost differential which is then multiplied by the unit value. Using 2001-2002 average membership/unit data provided by SDE, which includes gifted programs, students placed in A/B and C programs represent 75 percent of the special education membership. Applying the cost differential to students membership, D level programs and 3 and 4 year olds with developmental disabilities represent 46 percent of the funding units which results in higher SEG funding for school districts. Exhibit 5 provides an example of a school district's entire SEG funding estimate.

Special Education SY02 SEG Generated Based on Level of Service				
Level of Service	Membership	Percent of Membership	Funding Units	Percent of Funding Units
A/B	35,342.300	55.28%	24,739.610	35.60%
C	12,431.970	19.44%	12,431.970	17.89%
D and 3 and 4 year olds with developmental disabilities	16,163.770	25.28%	32,327.540	46.52%
Total Membership	63,938.040	100.00%	69,499.120	100.00%
Related Services	43,937.500		43,937.50	
Total Units			113,436.62	
Unit Value			2,896.01	
SEG Generated			\$328,513,585.89	

There is concern nationally with over-identification of students with disabilities because some funding formulas promote incentives for over-identification, especially those that are based on level of disability. Research indicates that school districts are often forced to place students in special education because general education does not have the programs necessary to assist students with learning disabilities or behavioral problems. Special education provides these resources.

In December 2002, the Center for Civic Innovation at the Manhattan Institute released a report *Effects of Funding Incentives on Special Education Enrollment* which states "School districts have traditionally received state funding based on the size of their special education program, so in effect they receive a bounty for each child they place in special education. Critics claim that this rewards schools for placing students in special education unnecessarily." The Center also reported that several states struggling with increased growth in special education have adopted new funding formulas that eliminate the bounty for special education students. The report identifies New Mexico as having a bounty system.

The President's Commission on Excellence in Special Education was charged to find ways to strengthen America's commitment to educating children with disabilities. The Commission issued its report on July 1, 2002. The Commission's findings include:

- IDEA generally provides basic legal safeguards and access for children with disabilities. The current system often places process above results and bureaucratic compliance above student achievement, excellence and outcomes. Too often, simply qualifying for special education becomes an end-point rather than a gateway to more effective instruction and strong intervention.
- The current system waits for students to fail instead of providing prevention and intervention.
- Children with disabilities are often considered separately with unique costs creating an incentive for misidentification and academic isolation. General education and special education share responsibilities for children with disabilities. They are not separable at any level -- cost, instruction or even identification.
- Many of the current methods of identifying children with disabilities lack validity.

The Individuals with Disabilities Education Act Amendments of 1997 (IDEA) Section 601 Subpart (7)(F) Findings states: "...Studies have documented apparent discrepancies in the levels of referral and placement of limited English proficient children in special education. The Department of Education has found that

services provided to limited English proficient students often do not respond primarily to the pupil's academic needs. These trends pose special challenges for special education in the referral, assessment, and services for our Nation's students from non-English language backgrounds."

34 Codification of Federal Regulations (CFR) Parts 300 and 303 Section 300.534 (b) Determination of Eligibility states that a child may not be determined to be eligible under this part if the determinant factor for such determination is lack of instruction in reading or math or limited English proficiency. 34 CFR Section 300.541 provides criteria for specific learning disabled which specifically states that the IEP team may not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of environmental, cultural or economic disadvantage.

SLD is a key indicator under focused monitoring. School districts that vary from the state-wide average are selected for monitoring visits. OSEP's annual report states that SLD continues to be the most prevalent disability, representing half of the students with disabilities served under IDEA. SLD appears to be a favored disability category in New Mexico and should be evaluated more closely to determine if over-identification is occurring in this area.

Recommendations:

Pursue a study of the funding formula to determine if it creates an incentive for over-identification of students with disabilities and gifted students, an incentive for service in segregated settings, and a disincentive for transitioning students out of special education. In addition, the study should determine if general education funding is sufficient to address instructional deficiencies that may be a factor in inappropriate referral of students to special education.

Review the analysis performed in this audit and determine if students are justifiably placed in special education and address misidentification and under- and over-identification as appropriate.

Department Responses:

- The state board of education has included in its legislative package a request for \$300,000 to study the funding formula. If this study is undertaken, the special education unit will work closely with the researchers to ensure that the formula's impact on identification is considered.
- The special education unit is concerned about the over-representation of some Native American students in the population of students with specific learning disabilities due to possible language issues, as reported in this audit. Appropriate actions are under consideration.

Focused Monitoring. A review of a sample of focused monitoring reports issued for SY02 indicates that issues that affect student outcomes are being identified. Although some school districts are having difficulty providing meaningful corrective action plans and progress reports, by design, enforcement procedures for non-compliance with corrective action plans has been delayed. SDE intends to provide these enforcement procedures to school districts in mid January 2003.

Focused monitoring differs from the type of monitoring visits performed in the past during school district accreditation. Instead of visiting one-third of the school districts each year to determine if documentation is on file and properly completed, focused monitoring uses data from ADS to select school districts with wide

variances from state-wide averages on key indicators. Literature issued by the special education unit describes focused monitoring as “a new way of determining compliance with federal and state special education laws and regulations while also addressing educational benefit. Focused monitoring emphasizes two major areas of the Individual with Disabilities Education Act (IDEA) of 1997: access to the general curriculum and improved educational performance for children with disabilities.”

Dr. Alan Colter of Louisiana State University Health Science Center developed the focused monitoring concept. Dr. Colter assisted special education unit staff in establishing the process and accompanied the teams on the first few visits. Louisiana State University Health Science Center recently received funding from OSEP to run the National Center for Focused Monitoring, Dr. Colter is the project director.

A state-wide group of stakeholders was established to determine what the key indicators should be. Four key indicators were identified for students with disabilities:

- < least restrictive environment (LRE) which emphasizes inclusion in regular classes to the maximum extent appropriate with access to the general education curriculum;
- < identification and evaluation which emphasizes possible over-identification of students with SLD;
- < performance on state-wide assessment of educational achievement; and
- < participation in the standard administration of state-wide assessment.

During SY02, 13 school districts were visited. During SY03, 14 school districts are scheduled for visits. Visits are made by a group consisting of teachers, parents and special education specialists. School districts are divided into four groups based on student population.

Out of 13 monitoring visits performed in SY02 six reports had been issued to school districts as of October 2002. A sample of two reports out of the six issued was selected for review to determine the type of monitoring performed. According to staff the findings included in these two reports are consistent with issues identified by most focused monitoring visits. The findings indicate that the districts did not provide evidence that:

- < effective pre-referral interventions have occurred, resulting in over-identification of students with SLD.
- < students with LEP are being evaluated in accordance with regulations.
- < lack of instruction in reading or math and LEP are eliminated when making eligibility determinations resulting in over-identification of students as being learning disabled.
- < IEPs are developed, reviewed or revised in accordance with regulations.
- < placement decisions follow the development of IEP goals and objectives and meet the requirement of serving students in the least restrictive environment.

It is hoped that focused monitoring will alleviate past monitoring and enforcement deficiencies by implementing stronger and effective follow-up that ensures compliance.

Areas where improvements could be made include:

- < developing and implementing a focused monitoring manual which includes helpful templates and examples of acceptable corrective action plans and progress reports. Forms have been developed for monitoring visits and yearly training is conducted. This is the second year this process has been in place and procedures are still being modified. Once SDE staff is satisfied with the process and procedures, a formal guide will be developed. Written procedures will provide monitoring teams specific guidance when out in the field and assist in training future team members as well as provide districts with guidance on preparing corrective action plans and progress reports.
- < reconfiguring computer processing operations for daily transaction processing and data base queries. According to staff, there is insufficient central processing unit (CPU) capacity to simultaneously perform daily transaction processing, import school district data and run data base queries. There have been several instances in which the system has crashed or become sluggish because of resources needed to run queries. As a result, access to ADS has been strictly limited for data analysis purposes and SDE is planning to add additional computer hardware dedicated for running data base queries.

The programming method utilized to write the ADS software also contributes to the inefficient use of CPU capacity. For example, programs and data base queries are not divided up into manageable sections. Lengthy, unstructured programs and queries lead to excessive maintenance issues and commit valuable computer CPU resources for an excessive period of time. The unstructured programming method utilized for ADS is a major weakness that severely limits the flexibility of the system for analyzing data and making even minor changes. Data elements that change over time, such as funding factors, are hard coded into programs and queries. For instance, a state-wide roll up of membership for state equalization guarantee funding estimates was requested from ADS but could not be provided because programming was required to change some factors. The state-wide roll up should be readily available without requiring additional programming, processing a change order and incurring additional maintenance costs.

Compounding the problem is the recent departure of the information technology (IT) manager in December 2002 and SDE's heavy reliance on the ADS software vendor for technical support and maintenance. The IT manager position had not been filled as of January 20, 2003. If the software vendor can no longer provide services ADS will be unsupported.

- < establishing a time line or time period for school district internal follow-up to assist in determining if expectations are met. Currently, school district internal corrective action plans do not provide a time period when school district follow-up will occur.
- < mandating use of the SDE developed IEP manual to assist school districts in preparing and implementing IEPs. Currently, use of the manual is recommended but not mandatory. According to New Mexico's state contact at OSEP, there is nothing in federal regulation that prohibits states from mandating that school districts use the manual. However, states are reluctant to mandate use of a state manual because of local autonomy issues. Considering the nature of the findings included in the focused monitoring reports and complaint allegations, mandatory use of the state developed IEP manual appears warranted.

The current staffing level in the focused monitoring area appears inadequate for the volume of reports issued and level of monitoring required. Two FTE are assigned to this area. These individuals function as focused monitoring team members when necessary, review working papers and reports, work with school districts to develop corrective action plans, monitor corrective action plans and progress reports, and provide technical assistance to school districts. As of October 2002 only half of the reports had been issued out of 13 school districts visited. In SY03, 14 school districts are scheduled for visits some of which have already begun. By the end of SY03 there will be 27 school districts to monitor compliance with corrective action plans and another round of monitoring visits will begin in October 2003.

By design, the stakeholders delayed implementation of enforcement procedures until the Spring of 2003. SDE anticipates rolling out these procedures in mid January 2003.

Recommendations:

- < Move forward with implementation of corrective action enforcement procedures by releasing them as soon as possible.
- < Develop and implement a focused monitoring manual and include acceptable corrective action plan and progress report examples.
- < Reconfigure computer processing operations for daily transaction processing and data base queries.
- < Obtain an independent post implementation review of ADS.
- < Require school districts to provide time lines for internal follow-up in corrective action plans.
- < Continue frequent monitoring of corrective action and progress reports.
- < Conduct a department-wide management study to identify opportunities for streamlining operations and reallocating FTE to ensure that all aspects of oversight, monitoring, compliance enforcement and technical assistance is adequately staffed.

Department Responses:

- Draft corrective action sanctions were reviewed and approved by the Focused Monitoring stakeholder group on January 9, 2003. They will be implemented, as necessary.
- Plans for development of a focused monitoring manual will proceed as staff time allows. In the meantime, staff is using examples of acceptable corrective action plans and progress reports with districts, as needed.
- Plans are being developed to reconfigure computer processing operations. The first step of this process is to implement a statewide student identification system. Funding for this first step has yet to be identified.
- With the addition of a new computer systems analyst to the special education unit, it is now possible for staff to request and receive special education data in a timely fashion.
- An independent post implementation review of ADS would be beneficial. Funding for this would need to be identified.
- Improvement plans are required to be as specific as possible in all areas and must demonstrate a strong evaluative component that allows the district to monitor and assess the implemented strategies. In addition to internal time lines, improvement plans must include details about frequency, responsible personnel, and deliverables.
- The special education unit is committed to frequent monitoring of corrective action and progress reports.

- The special education unit is constantly evaluating the appropriateness of staff responsibilities. At this point, the unit has no additional FTE to allocate to Focused Monitoring.

Complaint Investigations. Improvements have been made in the complaint investigation process as a result of concerns cited in a 1999 federal compliance review. However, SDE has not been able to fully comply with the federally required 60-day investigation time frame. As of October 30, 2002, there were seven investigations which had not been reported within 60 days of receipt. In addition, timely submission by school districts of corrective action plans and timely monitoring of those plans is not occurring.

Improvements made in this area include development of a written procedures manual and a writing style guide; access to research resources; establishment of a parent liaison to provide guidance to parents on student issues to avoid formal complaints; development of a written guide for parents providing details in easy to understand language regarding special education regulations and parent and student rights; installation of computer software to track complaint status; and development of a corrective action plan checklist to track school district compliance deadlines.

For the past two years SDE has been actively encouraging public school agencies to voluntarily contract with trained mediators to facilitate IEP meetings whenever districts and families are experiencing difficulties with this process or as an informal resolution to a state-level complaint. A neutral third party who is trained in helping two parties communicate may be able to assist them in problem solving, an exchange of ideas, agreement, and ultimate resolution of the complaint through the IEP process. The SDE has found that this course of action is often very effective and has resulted in resolving a number of state-level complaint cases. This process may also lead to an improved rapport between parents and public school agencies. Moreover, the report recently released by President Bush's Commission on Excellence in Special Education recommends using skilled facilitators to run IEP meetings in a situation where parties are having difficulty reaching agreement so that the process can result in win-win solutions for the child. Parents and public school agencies have realized the advantage of this useful service and are expressing more interest in contracting with mediators as IEP facilitators. In response, SDE is currently training a small cadre of independent mediators as IEP meeting facilitators who can in turn be made available to contract with school districts.

A review of documentation for three complaint investigations indicates no evidence of a tickler system and untimely follow-up on all three investigations:

- < One school district has complied with all corrective action required. A closure letter was prepared in April 2002; however, the letter had not been released as of October 30, 2002.
- < The second school district had not complied with the corrective action time-line. There was no evidence in the file indicating the reasons for non-compliance or that enforcement had been performed by SDE.
- < It was difficult to determine if the third school district had complied with the corrective action plan because the checklist was not included in the file. Without the checklist there is no evidence of review of documents submitted or enforcement of corrective action.

The special education unit receives an average of 50 complaints per year. Requests for documentation from school districts and parents often results in expansion of complaint issues which adds to the time required to conduct the investigation. Federal regulation requires that a report be issued as a result of the investigation within 60 days of receipt of the complaint. According to staff, formal training on complaint investigation is

not provided at either the federal or state level. A network of western states regional complaint investigators was recently organized to support one another in this difficult and often stressful process. Based on the western states regional complaint investigators teleconference minutes, one complaint investigator can handle about 20 complaints per year. SDE staff estimates it takes 60 to 80 hours to investigate a typical complaint. Some may take up to 120 hours. Computations indicate that 50 cases per year at 80 hours per case requires 4,000 hours with only 2,080 hours available in a work year per FTE, which includes holidays and other leave. The current backlog is seven out of 13 open complaint investigations.

The federal compliance review conducted in 1999 cited New Mexico for not having adequate staff in this area and not investigating complaints within the 60-day period. OSEP found there were 13 open complaints that exceeded the 60-day time line. The continuous improvement plan dated March 2000 states that SDE will develop a more efficient complaint investigation process with adequate staff to meet the 60-day legal requirement, dramatically reducing the number of complaints resolved after the legally required time-line. The first progress report submitted to OSEP on December 31, 2001 indicates that nine complaints were issued late due to staff shortages. From July 1, 2001 through December 31, 2001 complaint investigations had been conducted timely.

Prior to 2002, complaint investigations were performed by one individual. This individual was promoted to an administrative position but was performing both functions until April of 2002. Over the last year, a full-time investigator was hired and two staff provide temporary assistance. In 2002, two positions were reclassified as attorney positions to provide legal expertise in the investigation process, but only one of these positions was filled but not until January 2003. However, only 93 percent of these attorneys time will be allocated to complaint investigations. The following table provides a comparison of New Mexico caseload and FTE to surrounding states.

State Comparison of Complaint Caseload with FTE

STATE	NUMBER OF STUDENTS WITH IEPs SCHOOL YEAR 2000-01**	CASELOAD	FTE	CONTRACT STAFF
Arizona	89,809	N/A	4	3
Colorado	71,278	50	2	
Kansas	75,739	50	1	2
Montana	19,001	10	1.5	
Nebraska	43,797	40	5	
New Mexico	62,028	50	1.5	
Utah	53,921	20	1	
Wyoming	11,604	2	1	

Source: September 12, 2001 minutes of newly established western states regional complaint investigator group teleconference adjusted for subsequent changes

** NCES Number and Percent of Public School Students Participating in Selected Programs, by State: School Year 2000-01

SDE provided a report which lists complaints by frequency and type indicating that the lack of implementation of the IEP is the number one allegation. The second highest is behavioral issues surrounding suspensions and behavioral plans. IEP complaint placement/change of placement and free appropriate public education (FAPE) are included in the top five allegation issues.

Recommendations:

- < Utilize the established tickler system to notify the corrective action plan (CAP) monitor daily or weekly what is due.
- < Ensure that the CAP updates the checklist in timely manner.
- < Ensure that complaint investigation is adequately staffed at all times.
- < Mandate the use of the IEP manual.
- < Continue with and enhance the facilitated IEP process to help reduce the number of complaints filed.

Department Responses:

- Staff will be required to use the established tickler system.
- Staff will be required to update the CAP checklist in a timely manner.
- SDE is required to work with the State Personnel Office, the Department of Labor, and the Department of Finance Administration on posting and filling vacancies. SDE is committed to filling vacancies in a timely manner.
- Currently, the state-recommended IEP form has been available to districts for over a year. The guidance manual was issued this year. At the direction of the State Board of Education or the New Mexico Legislature, the use of this previously “recommended” form could be made mandatory.

Medicaid in the Schools (MITS). A review of MITS was performed to determine if New Mexico was leveraging federal funds to provide funding for special education and other health related services in the schools. Disagreement regarding administrative costs charged to MITS and a lack of cooperation between school district personnel and Human Services Department (HSD), Medical Assistance Division personnel has resulted in a 50 percent drop in Medicaid reimbursement to school districts.

There has been an ongoing dispute regarding submission of administrative costs for Medicaid reimbursement resulting in the filing of lawsuits. The court found that HSD was within its right as fiscal agent to eliminate administrative cost reimbursement. A review of documentation surrounding this issue indicates:

- < HSD terminated all joint powers agreements (JPA) with school districts as of June 30, 2002.
- < School districts were required to sign a new JPA and return it by August 2002. The new JPAs eliminated administrative cost reimbursement and SDE as a party to the JPA.
- < As of November 6, 2002, 40 of 79 school districts that previously participated in the program had not submitted signed JPAs.
- < Reimbursement to school districts has dropped 50 percent from FY00. The following table provides amounts reimbursed from FY98 through FY02.

Total Medicaid Reimbursement to School Districts by Fiscal Year

Fiscal Year	Amount Reimbursed		Total
	Program	Administrative	
98	5,643,639	4,324,793	9,968,432
99	7,183,726	6,597,982	13,781,708
00	8,261,867	7,622,203	15,884,070
01	6,855,740	1,735,285	8,591,025
02	7,263,823	120,404	7,384,227

- < Fifteen school districts have not submitted the general fund match and the five percent administrative cost imposed by HSD a few years ago. The total amount outstanding is \$468,546.

SDE has dedicated one FTE to monitor how school districts expend Medicaid reimbursement. SDE requested cooperation from HSD to monitor these expenditures. SDE restricts school districts' use of Medicaid reimbursement to health related services. Correspondence between HSD and SDE indicates that HSD has no authority to restrict the use of Medicaid reimbursement as long as costs submitted for reimbursement are in compliance with regulations. However, if SDE wants to monitor use of Medicaid reimbursement HSD is willing to enter into a separate JPA with SDE. According to SDE staff, procedures for auditing expenditures from Medicaid reimbursement are currently being developed and input from the LFC audit unit has been requested to review and provide recommendations on proposed audit procedures.

A review of spreadsheets maintained by SDE to track school district use of Medicaid reimbursement indicates that balances remaining at the end of each fiscal year are improperly carried over and amounts reported as reimbursed by HSD did not agree with amounts recorded on the spreadsheet. According to SDE staff, amounts recorded in the spreadsheet are provided by the school districts and are not reconciled to amounts reported by HSD because it is difficult to obtain reimbursement data from HSD. So far, monitoring use of Medicaid reimbursement consists of approving school districts' plans, answering school district questions regarding what is an allowable expenditure and maintaining a spreadsheet of district reported use of Medicaid reimbursement.

IDEA 97 Part B Section 612 (a)(12)(A)(i) Agency Financial Responsibility states that "An identification of, or a method for defining, the financial responsibility of each agency for providing services described in subparagraph (B)(i) to ensure a free appropriate public education to children with disabilities, provided that the financial responsibility of each public agency described in subparagraph (B), including the State Medicaid agency and other public insurers of children with disabilities, shall precede the financial responsibility of the local educational agency (of the State agency responsible for developing the child's IEP)."

Subparagraph (C) Special Rule further states "The requirements of subparagraph (A) may be met through

- (i) state statute or regulation;
- (ii) signed agreements between respective agency officials that clearly identify the responsibilities of each agency relating to the provision of services; or
- (iii) other appropriate written methods as determined by the Chief Executive Officer of the State or designee of the officer."

The lack of cooperation between school districts, SDE and HSD and the inability to compromise is affecting the State's efforts to leverage federal funds to provide additional services to students in need and ensure that students receive adequate health care. This lack of cooperation has also affected SDE's ability to coordinate the monitoring process and eliminate duplication of monitoring procedures. A reasonable indirect cost rate could be allocated for overhead to help defray some of the administrative costs associated with this program.

Recommendations:

- < Meet with the new administration to determine if services labeled as administrative are direct services which are eligible for Medicaid reimbursement.
- < Work with HSD to provide guidance to school district personnel regarding classification of expenditures and amend the JPA if necessary.
- < Require school district pay their matching share of Medicaid and outstanding administrative fees.

- < Meet with school district personnel to encourage signing of the new JPA and explain why costs submitted as administrative are not eligible for reimbursement.
- < Attempt to maintain a cordial and constructive relationship between all parties for the good of the entire State.
- < Develop adequate monitoring procedures for expenditure of Medicaid reimbursement, provide a copy to LFC auditors for review prior to implementation.

Department Responses:

- The SDE does not have control over what type of services will be allowed as eligible for MITS reimbursement. HSD is the governing body for the MITS program and makes determination on what is allowable. SDE policy has consistently been to maximize available revenues under this program.
- In the past the SDE has been included as one of the parties on the JPA. Currently the SDE is not included in the new JPA between HSD and school districts. Therefore, it is not appropriate for the SDE to meet with school district personnel to encourage signing of the new JPA or explain why costs submitted as administrative are not eligible for reimbursement. This should fall under the purview of the HSD. However, the SDE does provide guidance to school district personnel around clarification of expenditures for MITS reimbursement.
- SDE has initiated a call to meet with the new administration at HSD. The purpose of this meeting is to develop a collaborative partnership between HSD, school districts and SDE. SDE has been able to work effectively as a partner with HSD since the inception of this program over ten years ago, but that working relationship has become strained over the past two to three years due to HSD's tendency to make unilateral policy decisions about this program.
- There have been preliminary discussions with HSD to either include the SDE in the new JPA or develop a separate JPA that would allow the SDE the authority to monitor MITS expenditures for school districts. Even without formal authority, the SDE plans to continue monitoring schools to ensure Medicaid reimbursement is spent on health and health-related services as specified in the districts' JPA with HSD.

Performance Goals and Indicators. Performance goals and indicators reported to OSEP could not be validated and may have been misreported because of the methods used to collect and compute data.

The 2000-2002 biennial report submitted to OSEP included performance goals and indicators for participation in statewide assessments, performance on statewide assessments, graduation rate, and drop-out rate. SDE procedures for collecting and reporting data have not kept pace with federal requirements under the IDEA. Performance goals and indicators reported to OSEP could not be validated and may have been misreported because of the methods used to collect and compute data.

- < The 120 day count is used in school ratings to determine student participation rates in statewide standard assessments, but participation rates are not disaggregated for students with disabilities as required by OSEP. Therefore, the special education unit had to compile participation data from other published reports that did show disaggregations for students with disabilities. Using the 120th day count, 85 percent of the special education students were tested instead of 90 percent as reported to OSEP.

- < Through SY02, the data collection and reporting unit calculated the graduation rate by comparing the number of students in grade 12 on the first day of school to the number of grade 12 students who graduate, as reported to SDE by districts on hard copy as aggregate numbers. This data collection was not disaggregated for students with disabilities. Again, the special education unit had to compile graduation rates from other published reports that did show disaggregations for students with disabilities. Beginning in SY02, a graduation data field was included in the student file under ADS, but data submitted by districts in this field was incomplete. The graduation rate for all students reported to OSEP in the biennial performance report is 97 percent, but the State *2000-2001 Accountability Report* indicates the rate is 89.8 percent.
- < Performance results for students with disabilities who took the Alternate Assessment (AA) could not be reported due to a significant number of test administration irregularities. Specifically, many test booklets were only partially completed and the cover sheets were not completed according to the SDE instructions.

The 2000-2002 biennial report to OSEP also included data on suspension/expulsion rates and disproportionality. Concerns related to the validity of these data are as follows:

- < Districts are asked to report data on suspensions and expulsions to out-of-school settings for more than 10 days for any reason and suspensions and expulsions due to drugs and weapons for any length of time through ADS. However, since these data are not tied to funding, and since the SDE has not allocated resources to audit these data, validity is questionable. Specifically, only 54 out of 89 school districts reported suspension/expulsion data and the second largest school district reported no suspension/expulsion incidents during SY01.
- < Disproportionality data is directly related to the ethnicity data field. ADS allows “other” and “not reported” as valid entries, in addition to five standard ethnic groups, while all of the OSEP reports allow only the five standard groups. The current special education unit policy is to proportionately distribute the “other” and “not reported” students among the five standard groups. Considering limited SDE resources, this task appears to be unnecessary and time consuming.

With the implementation of “adequate yearly progress” under No Child Left Behind (NCLB), there is concern that the number of students with disabilities taking the AA will increase beyond the NCLB limit of 0.5%.

Another factor that effects consistent and accurate performance reporting is the lack of state-wide unique student identification numbers which does not allow for proper tracking of students throughout the state and throughout their educational experience. In addition, not all data is captured through ADS. School districts are required to submit drop-out and graduation data in hard copy. The use of state-wide student identification numbers and eliminating the need for hard copy data submission would greatly improve and increase the level of analysis that could be performed regarding student performance; reduce inefficiency in data submission and frustration in matching student data with assessment data; and improve the reliability of reported data by allowing for proper validation, verification and reconciliation of data and among various reports.

The LFC audit of the Data Used in Accountability Programs, dated October 27, 2001 stated that ADS has great capability and captures substantial data. ADS is being used effectively for school district funding. Although data quality improved with ADS, data entry errors made by school districts adversely effects district and state student performance. In addition, the lack of unique student identification numbers limits the extent

to which data can be validated. For instance, if a student is reported as a drop-out by one district that issues its own student identification numbers, there is no way to determine if that student is being reported by another district. Hence the student may be reported as a drop-out when in fact he/she is a student in another district.

The implementation of the Accountability Program requires that data be verified, validated and reconciled because it is being used to determine the adequacy of school districts' educational performance. Resources will be required to verify and validate the data submitted for compliance with the No Child Left Behind Act. School districts must be made aware of the consequences of misreported data. The high stakes associated with the No Child Left Behind Act makes the accuracy of data collection and reporting critical to ensuring that the performance of New Mexico students is adequately and reliably portrayed.

IDEA 97 Part B Section 612 State Eligibility part (a) states "A state is eligible for assistance under this part for a fiscal year if the State demonstrates to the satisfaction of the Secretary that the State has in effect policies and procedures to ensure that it meets each of the following conditions..." The conditions listed in subpart (16) require the State establish goals for the performance of children with disabilities in the State that 1) will promote the purposes of the Act, and 2) are consistent, to the maximum extent appropriate, with other goals and standards for children established by the State. At a minimum, the State is required to address the performance of children with disabilities on assessments, drop-out rates, and graduation rates. The State is required to report to the Secretary of the Department of Education and the public on the progress of the State and of children with disabilities toward meeting the established goals. Based on the assessment of progress the State is required to revise its improvement plan as needed to improve performance, if the State receives assistance under that subpart.

Subpart (17) Participation in Assessments requires children with disabilities be included in general State and district-wide assessment programs with appropriate accommodations, where necessary. Where appropriate, the State is required to develop guidelines for the participation of children with disabilities in alternative assessments for those children who cannot participate in State and district-wide assessment programs. Beginning July 1, 2002 the State is required to conduct alternative assessments.

Subpart (22) requires the State to examine data to determine if significant discrepancies are occurring in the rate of long-term suspensions and expulsions of children with disabilities among local educational agencies in the State or compared to such rates for non-disabled children with such agencies.

Recommendations:

- < Capture as much data as possible in ADS and eliminate the need for hard copy submissions.
- < Coordinate with the data collection and reporting unit and the accountability unit to develop a common methodology for calculating and reporting all student performance outcomes. Require that the data collection and reporting unit prepare required reports and that program staff review and analyze the reports for reasonableness. Require the internal audit unit to validate sample data used in all published reports. Allocate enough FTE to ensure that data published by the SDE is reliable and consistently reported.
- < Use ADS as much as possible to assist in analyzing performance.
- < Allocate adequate resources to data verification, validation and reconciliation to ensure data reliability.

- < Conduct web-based training for personnel who administer the alternate assessment to ensure that this assessment is only administered to students for whom the test was designed and is administered properly.
- < Delete students who are reported in ADS as “other” or “not reported.” from OSEP reports.
- < Implement the use of a state-wide student identification number.

Department Responses:

- ADS holds student-specific data. SDE is in the process of eliminating any remaining student-specific hard copy data requests from districts. However, some required reports are not based on student-specific data and data for those reports will continue to be collected on hard copy.
- Under NCLB, the SDE is in the process of ensuring that all state and federal performance reports are disaggregated, as required. Ensuring data validity is a function shared by all units within SDE that use ADS data. Exception reports are published for districts highlighting data anomalies. In addition, the special education unit randomly selects districts annually for the purpose of data verification. Finally, the internal audit unit performs audits in high priority areas, such as test security and drop out reporting.
- The SDE is reviewing FTE allocations to ensure that data analysis functions are adequately covered.
- The SDE is reviewing resource allocations to ensure reliable data verification, validation and reconciliation.
- The special education unit is planning to revise the current web-based training for personnel who administer the alternate assessment, in light of frequently occurring errors in administration over the last two years.
- The special education unit will delete students from future federal reports requiring ethnic identification if the students are reported in the ethnicity field in ADS as “other” or “not reported.”
- Plans are being developed to reconfigure computer processing operations. The first step of this process is to implement a statewide student identification system. Funding for this first step has yet to be identified.

Federal Financial Reports. Special education federal financial status reports have not been submitted to OSEP since federal fiscal year (FFY) 2000.

According to Fiscal Services Bureau (FSB) staff SDE is required to submit reports three times per year. The initial report is due in September of the first year of the appropriation, the carryover report is due in December and the final report is due the 27th month. Staff indicated that OSEP has not asked for these reports and feedback has never been provided when reports are submitted. Evidence of reporting requirements was requested but could not be provided by FSB staff.

OSEP was contacted to obtain reporting requirement. A memo regarding data submissions due during FFY 1983 dated August 31, 1982 from the U.S. Department of Education to chief state school officers and copied to state special education directors states “...Financial Reports have been dropped since similar information is available through other Departmental units. Performance Reports for the three (3) State grant programs for handicapped children have been consolidated into one report.” It is not clear if submission of the federal financial report is required based on this memo and discussions with OSEP staff.

Legislative Finance Committee Audit of Special Education - State Department of Public Education

The explanation provided for untimely submission of federal financial reports is staff turnover. The position responsible for preparation of the report was vacant for six months. These duties have been bounced around from individual to individual during this period. In addition, there are no written procedures to prepare this report. The individual who prepared the report prior to the position becoming vacant learned how to prepare the report by analyzing prior reports and figuring out where the information came from and how it was compiled. Other issues which resulted from inquiries and review of federal financial reports for FFY98 through FFY00 are:

- < IDEA-B allocations have not been reconciled to cash disbursements since the position became vacant.
- < FSB management signs the reports but does not thoroughly review them prior to submission.
- < Amounts reported as allocated and awarded in FFY98, FFY99 and FFY00 do not agree with amounts reported in allocation summaries provided by the special education unit.

FSB staff indicate that it would be much easier to track cash allocations and disbursements if school districts are required to submit expenditure reports monthly rather than quarterly. School districts IDEA-B expenditure reports are by line item; however, on a state-wide basis SDE collapses the line items into federal grant programs.

SDE may be jeopardizing federal grant awards by not submitting financial reports on a timely basis, not properly completing reports, and not properly reconciling cash disbursement and allocations with documentation provided by the special education unit.

An internal audit was conducted as a result of Department of Finance and Administration (DFA) concerns. A letter dated October 8, 2002, included the following results:

- < Funds were being disbursed prior to warrants being received by the State Treasurer's Office (STO) which violates wire transfer practices and procedures mandated by Section 2-60-8-10 NMSA 1978.
- < The list of personnel authorized to disburse funds has not been updated to reflect staff changes.
- < Adjustments were required as a result of insufficient program funds, incorrect bank routing information of sub-recipients and funds being transferred to the wrong entity.
- < As of September 24, 2002 adjustments requested by STO on May 13, 2002, for outstanding debit and credit items had not been received.

A letter from SDE to DFA dated October 31, 2002, states that the internal audit unit will be monitoring these activities.

Recommendations:

- < Develop written procedures for preparation of the federal financial report and fill vacancies timely.
- < Program the computer to report IDEA-B expenditures by line item.
- < Address deficiencies noted in the internal audit adequately and timely and ensure that procedures are in place to avoid future occurrence of this nature and magnitude.
- < Require management thoroughly and timely review all monthly cash reconciliations and federal financial reports.
- < Contact OSEP to determine what reports are due when and comply with reporting requirements.

Department Responses:

Concur. During the past 18 months, the SDE Federal Flow-through Unit has experienced in excess of a 100% turnover in staff. The unit has utilized the services of temporary employees to carry out daily duties and disbursement of cash requests and reimbursements to educational entities.

The SDE has aggressively recruited all vacancies and is currently 80% staffed. A very experienced supervisor has been hired and is mentoring new staff.

The SDE did not have a functioning accounting system for the FYE 2000-2001 and 2001-2002. Spreadsheets and manual ledgers were the source documentation for all grants. A new fully integrated and automated accounting system was implemented in July 2002. A second database will be implemented by April 2003 that will record all subsidiary information recommended by the LFC Performance Auditor. This information will allow all grants to have real time data and thus enable the SDE to submit accurate and timely federal financial reports. Due to staff shortages and the lack of an integrated accounting system, timely cash reconciliations were impossible. These deficiencies have now been corrected with the filling of vacant positions and the implementation of our new accounting system. All reconciliations are targeted for completion by April 2003.

All financial reports will be reviewed by management as well as by program fiscal monitoring staff for accuracy and reasonableness prior to release.

School District Applications for IDEA Funding. Traditionally, the IDEA application process has attempted to assure that these categorical funds have been budgeted to specifically benefit students with disabilities. Although goals and objective are part of the process, no measurement of success is required for continued funding.

A review of sample school district applications submitted for SY01, SY02, and SY03 indicates that initial budgets and budget adjustments are reviewed by special education unit staff for alignment with approved goals. In addition special education unit staff review previous year SEG expenditures on special education related line items (personnel only) to assure that supplanting is not occurring. However, when questioned regarding the extent of expenditure review for proper use of federal funds, staff responded that reliance is placed on financial audits which should cover auditing of invoices, personnel records, contracts, etc., to determine compliance with the application.

34 CFR Sec. 300.230 – Use of amounts states that funds are to be used in accordance with applicable provisions of IDEA-Part B to supplement the costs of providing special education and related services to children with disabilities.

Staff explained that application procedures are under revision for SY04, to eliminate unnecessary paperwork on the part of districts and to tie the application process to focused monitoring. During January, staff put out these proposed revisions for public comment.

Recommendations:

Continue with the current plan to require school districts to submit applications addressing improvement in focused monitoring data. Set realistic and meaningful benchmarks to monitor improvement.

Clarify the role of internal audit with regard to appropriateness of expenditures under IDEA. Determine

whether additional FTE are needed to perform this review.

Department Responses:

- The proposed revisions to the IDEA application process will be put out for public comment in late January. Responses will be evaluated before the final application guidelines are released for 2003-04.
- The special education unit will initiate discussions with the fiscal unit regarding a necessary review of line item expenditures for IDEA-B. The internal audit unit will continue to inform the special education unit whenever it receives a district audit report containing findings of non-compliance with regard to improper administration of IDEA funds.

Administrative Budget. An analysis of the adequacy of the special education administrative budget could not be performed because personal services and employee benefits have not been recorded in the general ledger for FY02 and FY03. According to FSB personal services and employee benefits have not been recorded because of conversion to a new accounting system. Differences in administrative allocations for FFY99 and FFY00 were identified between amounts reported in the federal financial reports and amounts provided by the special education unit.

Special education unit staff indicate that it has been difficult to track school district allocations and administrative expenditures because of the status of SDE accounting records. Information is either not available, late or inaccurate. Inaccurate federal financial reporting could jeopardize federal grant awards.

Supporting documentation has been requested from FSB staff to verify administrative expenditures reported to OSEP; however, documentation had not been provided as of the date of this report.

Recommendations:

Record expenditures in the general ledger timely. Require that:

- documentation supporting amounts reported in federal financial reports be readily available;
- information recorded in the general ledger and in federal financial reports be reconciled to financial information maintained by divisions and bureaus within SDE; and
- federal financial reports and other financial reports be reviewed by management as well as by program fiscal monitoring staff for accuracy and reasonableness prior to release.

Department Responses:

Concur. As stated in the previous response, the SDE did not have a functioning accounting system for FYE 2000-2001 and 2001-2002. Since implementation of our new accounting system in July 2003, the SDE now has real time expenditure data for all grants. When the second database is created, the SDE will have the ability to record all subsidiary information recommended by the LFC Performance Auditor.

All financial reports will be reviewed by management as well as by program fiscal monitoring staff for accuracy and reasonableness prior to release.

Staff Turnover and Other Administrative Issues. The special education unit experienced high turnover during 2001 and 2002. Eighteen of 21 FTE (85%) have been with the special education unit less than 18

Legislative Finance Committee Audit of Special Education - State Department of Public Education

months. Vacancies have existed in the special education unit for as long as two years. Written procedure manuals have not been developed and there are some administrative processes that appear to create inefficiency and staff frustration.

Interviews with special education staff indicate that the most senior staff member has been with SDE nine years. The State Personnel Office (SPO) provided an analysis of the turnover in the special education unit. The turnover rate for 1997 through 2001 is as follows:

1997	10.0%
1998	36.8%
1999	18.2%
2000	36.4%
2001	63.6%

Analysis of the documentation provided by SPO indicates that one position was vacant for two years, from December 1999 to November 2001. Another position was vacant for 15 months. There were eight vacancies from February 2001 to May 2001 and six vacancies from May 2001 to November 2001. All educational consultant positions have had a 100 percent turnover in the last 18 months. There are also prolonged vacancies in other areas within SDE as mentioned in previous findings included in this report and previous LFC audit reports.

Three prolonged vacancies are the result of reclassification. Due to the growing complexity of complaint investigations two positions have been reclassified as lawyer-B. As a result of reorganization these positions are under the general counsel. According to staff, reclassification of the position was a lengthy process due to resistance from the Department of Finance and Administration budget analyst and the SPO processes. The special education unit also reclassified a position to computer systems analyst to assist in analyzing ADS and other data. It took several months to get the position reclassified and receive an applicant list from SPO.

Explanations provided by staff for untimely filling of vacancies are: lack of qualified applicants, untimely availability of job candidate lists from Labor Department and SPO, cumbersome interagency hiring process, workload, noncompetitive salaries, and reorganization and reclassification of positions.

As stated in previous LFC audit reports, written procedures are lacking within SDE. The special education unit has not developed written procedures for any of its processes other than complaint investigations. Based on interviews, there is only one employee within the special education unit who is knowledgeable in all aspects of the program. Currently this employee is responsible for financial administration of the special education program.

The extent of turnover experienced by SDE makes written procedures essential. SDE has placed itself in a vulnerable position when program operations and knowledge are concentrated in one employee. If that employee terminates, it could be difficult to determine how job duties are performed, especially in the financial area where information is critical for continued state and federal support. This situation also creates inefficiency, ineffectiveness and frustration because staff resources are devoted to hunting for information, self training, correction of errors and absorbing duties until vacancies are filled.

Other administrative issues identified are:

< Inefficiency in SDE's process for preparing time sheets. Employees are required to submit time sheets

on Tuesday for the pay period ending on Friday. This results in employees having to guess on their hours for the remainder of the week. If changes occur, time sheets must be amended. In addition, time sheets must be submitted as a two-sided document. The printer often malfunctions during the printing process which creates inefficiency and frustration for employees. According to staff, completing the time sheet can take up 30 minutes every other week. Staff suggested electronic time reporting to avoid having to print a two sided time sheet.

- < Inability to timely report licensure information to the federal government for certain related services positions. Three years ago speech/language pathologists, speech language apprentices and audiologists were required to submit their licenses to the Regulation and Licensing Department (RLD) instead of SDE. However, reporting this data to the federal government remains with SDE but has not been reported for three years. The employee responsible for preparing this report expressed frustration in obtaining licensure information from RLD. SDE staff requested a tape with required information to prepare the report. RLD refuses to provide the information based on confidentiality issues. This issue was resolved; however, due to turnover in RLD, the issue resurfaced. Without the tape, SDE would have to obtain a list of licensed individuals, identify those required to be reported and count them. How that list will be provided without violating confidentiality is creating problems. Options recommended to resolve the issue are to have RLD prepare the report or have these individuals submit copies of licenses to the licensure unit within SDE. However both RLD and the licensure unit have expressed concern regarding availability of resources to prepare the report or monitor submission of copies.

Having time sheets submitted four days prior to the end of the pay period could result in employees receiving incorrect payments, incorrect leave balances and flex time. Frustration with the current time sheet submission process was expressed by a majority of staff interviewed. This process results in inefficient use of limited resources. Even though the federal government has not expressed concern regarding untimely submission of all required licensure data, this could effect federal funding.

Recommendations:

- < Fill vacancies timely, work with SPO and the Labor Department to streamline the hiring process and reevaluate the salary schedule.
- < Develop written procedures for all critical functions as soon as possible.
- < Implement electronic time sheets.
- < Meet with RLD management to resolve the confidentiality licensure issue for timely preparation and submission of all licensure data to the federal government.

Department Responses:

- SDE is required to work with the State Personnel Office, the Department of Labor, and the Department of Finance Administration on posting and filling vacancies. SDE is committed to filling vacancies in a timely manner. The human resources unit is in the process of streamlining internal procedures. A review of the salary schedule for education administrators was completed within the last year. As soon as SDE can identify additional resources, compensation equity changes may occur.
- The special education unit agrees that written procedures would be helpful in training new staff and the special education unit will make every attempt to find staff time to do so.
- The human resources unit is currently working to revise procedures for the submission of time sheets.
- The special education unit has reached an agreement with RLD whereby they will submit an ordered

list of licensed SLPs, SLAs, and audiologists. The special education unit will then manually match that list with a corresponding list of staff submitted through ADS as being licensed in those positions.

Supply of Special Education Teachers. A review of the One Year Substandard Licensure Report indicates that approved special education teacher waivers average 47 percent of the total waivers issued state-wide. A cursory review by school district indicates that this is also the case by school district. The following table provides the number of waivers issued the last four years.

	1997-1998	1998-1999	1999-2000	2000-2001
Special education waivers	477	507	630	616
Percent change in special education waivers	N/A	6.3	24.3	-2.2
State-wide waivers	1030	1076	1301	1342
Percent special education waivers of all waivers	46.31	47.1	48.4	45.9

One of the conditions of state eligibility under IDEA 97 Part B is that the State have in effect a comprehensive system of personnel development that is designed to ensure an adequate supply of qualified special education, regular education, and related services personnel that meets the requirements for a state improvement plan relating to personnel development in subsections (b)(2)(B) and (c)(3)(D) of section 653. Under the No Child Left Behind Act, waivers will not be acceptable.

SDE established a group to study the teacher shortage and come up with options to recruit and retain qualified teachers. SDE is also working with colleges and universities to train and obtain qualified teachers.

Recommendation:

Continue to work with the study group to develop a plan to recruit and train qualified teachers and work with colleges and universities to address the teacher shortage.

Department Response:

The Teacher Educator Accountability Committee continues to work on the development of a plan to recruit and train qualified teachers in areas faced with shortages. Additionally, the special education unit is using part of its state improvement grant (SIG) to develop a comprehensive system of personnel development in collaboration with New Mexico's institutions of higher education. SIG funding is also being used to support capacity building for para-educators in New Mexico. The dual-licensure program at UNM continues to increase the number of teachers certified in both special education and elementary education. The special education unit is also exploring web-based technology to address teacher recruitment in New Mexico.

Exhibit 1A

Percent of Special Education Membership to Total Membership SY02

School District	Total Students	Number Special Education Students	Percentage Special Education Students
Alamogordo	7,052.7	1,300.3	18.4%
Albuquerque	82,427.0	17,434.0	21.2%
Animas	332.7	60.3	18.1%
Artesia	3,594.5	801.0	22.3%
Aztec	3,182.0	731.4	23.0%
Belen	4,646.8	1,101.7	23.7%
Bernalillo	3,400.3	623.3	18.3%
Bloomfield	3,077.7	765.0	24.9%
Capitan	590.0	127.3	21.6%
Carlsbad	6,181.3	1,661.7	26.9%
Carrizozo	228.5	58.3	25.5%
Central	7,177.5	1,243.0	17.3%
Chama Valley	554.0	120.7	21.8%
Cimarron	608.2	145.0	23.8%
Clayton	661.5	160.3	24.2%
Cloudcroft	504.5	108.0	21.4%
Clovis	8,057.8	1,795.7	22.3%
Cobre	1,808.8	385.0	21.3%
Corona	77.0	14.0	18.2%
Cuba	760.3	142.0	18.7%
Deming	5,228.0	503.0	9.6%
Des Moines	139.5	30.0	21.5%
Dexter	1,103.5	285.0	25.8%
Dora	238.8	42.3	17.7%
Dulce	696.7	116.7	16.7%
Elida	105.0	28.0	26.7%
Espanola	4,874.8	566.3	11.6%
Estancia	906.8	163.4	18.0%
Eunice	621.3	147.7	23.8%
Farmington	9,945.7	1,595.3	16.0%
Floyd	240.5	70.0	29.1%
Ft. Sumner	365.5	103.0	28.2%
Gadsden	12,732.5	2,054.7	16.1%
Gallup	13,816.8	2,234.0	16.2%
Grady	102.0	14.0	13.7%
Grants	3,555.7	453.0	12.7%
Hagerman	494.2	126.3	25.6%
Hatch	1,479.7	194.7	13.2%
Hobbs	7,291.7	1,441.0	19.8%
Hondo Valley	127.5	28.0	22.0%
House	154.5	31.0	20.1%
Jal	445.7	101.3	22.7%

Exhibit 1A

Percent of Special Education Membership to Total Membership SY02

School District	Total Students	Number Special Education Students	Percentage Special Education Students
Jemez Mountain	350.7	45.7	13.0%
Jemez Valley	479.9	94.7	19.7%
Lake Arthur	214.3	47.0	21.9%
Las Cruces	21,568.2	5,604.0	26.0%
Las Vegas-City	2,392.3	447.7	18.7%
Las Vegas-West	2,086.2	272.7	13.1%
Logan	257.8	49.3	19.1%
Lordsburg	832.3	187.7	22.5%
Los Alamos	3,474.8	1,061.7	30.6%
Los Lunas	8,247.0	1,779.7	21.6%
Loving	576.7	113.7	19.7%
Lovington	2,707.0	719.0	26.6%
Magdalena	336.3	75.3	22.4%
Maxwell	134.5	30.0	22.3%
Melrose	264.0	80.0	30.3%
Mesa Vista	556.4	90.3	16.2%
Mora	642.3	99.0	15.4%
Moriarty	4,431.7	925.3	20.9%
Mosquero	55.5	17.0	30.6%
Mountainair	377.2	80.3	21.3%
Pecos	869.5	181.3	20.9%
Penasco	634.8	79.0	12.4%
Pojoaque	1,916.2	334.7	17.5%
Portales	2,757.8	514.3	18.7%
Quemado	172.0	27.0	15.7%
Questa	587.7	89.7	15.3%
Raton	1,430.7	266.7	18.6%
Reserve	243.7	58.0	23.8%
Rio Rancho	9,824.8	1,731.3	17.6%
Roswell	9,575.2	2,610.7	27.3%
Roy	108.0	25.0	23.1%
Ruidoso	2,478.0	504.7	20.4%
San Jon	160.0	34.0	21.3%
Santa Fe	12,417.2	2,407.0	19.4%
Santa Rosa	817.3	162.0	19.8%
Silver City	3,521.5	693.7	19.7%
Socorro	2,121.5	373.0	17.6%
Springer	266.8	60.7	22.7%
Taos	3,137.9	641.7	20.4%
Tatum	333.7	76.3	22.9%
Texico	514.0	76.7	14.9%
T or C	1,682.2	353.0	21.0%
Tucumcari	1,296.0	246.3	19.0%
Tularosa	1,102.2	282.3	25.6%

Percent of Special Education Membership to Total Membership SY02

School District	Total Students	Number Special Education Students	Percentage Special Education Students
Vaughn	94.0	22.0	23.4%
Wagon Mound	175.5	72.0	41.0%
Zuni	1,739.0	347.7	20.0%
Abq-21 Century	115.3	11.0	9.5%
Abq-Amy Biehl	145.0	36.0	24.8%
Abq-East Mountain	202.7	23.0	11.3%
Abq-Learning Comm	136.0	10.0	7.4%
Abq-Nuestros Valores	83.0	19.0	22.9%
Abq-P.A.P.A.	176.0	43.0	24.4%
Abq-RFK	177.0	43.0	24.3%
Abq-South Valley	139.7	21.0	15.0%
Abq-SW Learning Ctr.	204.0	30.0	14.7%
Clayton-Amistad	14.2	1.0	7.1%
Jemez-San Diego	104.8	14.7	14.0%
Questa-Red River Valley	36.0	5.0	13.9%
Questa-Roots & Wings	16.0	6.0	37.5%
Roswell-Sidney Gutierrez	20.0	8.0	40.0%
Santa Fe-AT&C	153.0	37.0	24.2%
Santa Fe-Monte del Sol	180.3	37.3	20.7%
Santa Fe-Turquoise Trail	386.0	64.4	16.7%
Socorro-Cottonwood	107.0	13.0	12.1%
Taos-Anasi	40.0	3.0	7.5%
Taos-Municipal	221.3	49.3	22.3%
	312,208.8	63,672.1	20.4%

Exhibit 1B

Percent of Special Education Membership to Total Membership (Highest to Lowest) SY02

School District	Total Students	Number Special Education Students	Percentage Special Education Students
Wagon Mound	175.5	72.0	41.0%
Roswell-Sidney Gutierrez	20.0	8.0	40.0%
Questa-Roots & Wings	16.0	6.0	37.5%
Mosquero	55.5	17.0	30.6%
Los Alamos	3,474.8	1,061.7	30.6%
Melrose	264.0	80.0	30.3%
Floyd	240.5	70.0	29.1%
Ft. Sumner	365.5	103.0	28.2%
Roswell	9,575.2	2,610.7	27.3%
Carlsbad	6,181.3	1,661.7	26.9%
Elida	105.0	28.0	26.7%
Lovington	2,707.0	719.0	26.6%
Las Cruces	21,568.2	5,604.0	26.0%
Dexter	1,103.5	285.0	25.8%
Tularosa	1,102.2	282.3	25.6%
Hagerman	494.2	126.3	25.6%
Carrizozo	228.5	58.3	25.5%
Bloomfield	3,077.7	765.0	24.9%
Abq-Amy Biehl	145.0	36.0	24.8%
Abq-P.A.P.A.	176.0	43.0	24.4%
Abq-RFK	177.0	43.0	24.3%
Clayton	661.5	160.3	24.2%
Santa Fe-AT&C	153.0	37.0	24.2%
Cimarron	608.2	145.0	23.8%
Reserve	243.7	58.0	23.8%
Eunice	621.3	147.7	23.8%
Belen	4,646.8	1,101.7	23.7%
Vaughn	94.0	22.0	23.4%
Roy	108.0	25.0	23.1%
Aztec	3,182.0	731.4	23.0%
Abq-Nuestros Valores	83.0	19.0	22.9%
Tatum	333.7	76.3	22.9%
Jai	445.7	101.3	22.7%
Springer	266.8	60.7	22.7%
Lordsburg	832.3	187.7	22.5%
Magdalena	336.3	75.3	22.4%
Maxwell	134.5	30.0	22.3%
Taos-Municipal	221.3	49.3	22.3%
Clovis	8,057.8	1,795.7	22.3%
Artesia	3,594.5	801.0	22.3%
Hondo Valley	127.5	28.0	22.0%
Lake Arthur	214.3	47.0	21.9%

Exhibit 1B

Percent of Special Education Membership to Total Membership (Highest to Lowest) SY02

School District	Total Students	Number Special Education Students	Percentage Special Education Students
Chama Valley	554.0	120.7	21.8%
Capitan	590.0	127.3	21.6%
Los Lunas	8,247.0	1,779.7	21.6%
Des Moines	139.5	30.0	21.5%
Cloudcroft	504.5	108.0	21.4%
Mountainair	377.2	80.3	21.3%
Cobre	1,808.8	385.0	21.3%
San Jon	160.0	34.0	21.3%
Albuquerque	82,427.0	17,434.0	21.2%
T or C	1,682.2	353.0	21.0%
Moriarty	4,431.7	925.3	20.9%
Pecos	869.5	181.3	20.9%
Santa Fe-Monte del Sol	180.3	37.3	20.7%
Taos	3,137.9	641.7	20.4%
Ruidoso	2,478.0	504.7	20.4%
House	154.5	31.0	20.1%
Zuni	1,739.0	347.7	20.0%
Santa Rosa	817.3	162.0	19.8%
Hobbs	7,291.7	1,441.0	19.8%
Jemez Valley	479.9	94.7	19.7%
Loving	576.7	113.7	19.7%
Silver City	3,521.5	693.7	19.7%
Santa Fe	12,417.2	2,407.0	19.4%
Logan	257.8	49.3	19.1%
Tucumcari	1,296.0	246.3	19.0%
Las Vegas-City	2,392.3	447.7	18.7%
Cuba	760.3	142.0	18.7%
Portales	2,757.8	514.3	18.7%
Raton	1,430.7	266.7	18.6%
Alamogordo	7,052.7	1,300.3	18.4%
Bernalillo	3,400.3	623.3	18.3%
Corona	77.0	14.0	18.2%
Animas	332.7	60.3	18.1%
Estancia	906.8	163.4	18.0%
Dora	238.8	42.3	17.7%
Rio Rancho	9,824.8	1,731.3	17.6%
Socorro	2,121.5	373.0	17.6%
Pojoaque	1,916.2	334.7	17.5%
Central	7,177.5	1,243.0	17.3%
Dulce	696.7	116.7	16.7%
Santa Fe-Turquoise Trail	386.0	64.4	16.7%
Mesa Vista	556.4	90.3	16.2%
Gallup	13,816.8	2,234.0	16.2%
Gadsden	12,732.5	2,054.7	16.1%

Exhibit 1B

Percent of Special Education Membership to Total Membership (Highest to Lowest) SY02

School District	Total Students	Number Special Education Students	Percentage Special Education Students
Farmington	9,945.7	1,595.3	16.0%
Quemado	172.0	27.0	15.7%
Mora	642.3	99.0	15.4%
Questa	587.7	89.7	15.3%
Abq-South Valley	139.7	21.0	15.0%
Texico	514.0	76.7	14.9%
Abq-SW Learning Ctr.	204.0	30.0	14.7%
Jemez-San Diego	104.8	14.7	14.0%
Questa-Red River Valley	36.0	5.0	13.9%
Grady	102.0	14.0	13.7%
Hatch	1,479.7	194.7	13.2%
Las Vegas-West	2,086.2	272.7	13.1%
Jemez Mountain	350.7	45.7	13.0%
Grants	3,555.7	453.0	12.7%
Penasco	634.8	79.0	12.4%
Socorro-Cottonwood	107.0	13.0	12.1%
Espanola	4,874.8	566.3	11.6%
Abq-East Mountain	202.7	23.0	11.3%
Deming	5,228.0	503.0	9.6%
Abq-21 Century	115.3	11.0	9.5%
Taos-Anasi	40.0	3.0	7.5%
Abq-Learning Comm	136.0	10.0	7.4%
Clayton-Amistad	14.2	1.0	7.1%
	312,208.8	63,672.1	20.4%

Exhibit 2A

**Percent of Special Education Budget to Total Budget (General Special Revenue Funds)
by School District FY02**

School District	Special Education Budget	Total Budget	Percentage Special Education Budget
Alamogordo	\$ 5,824,144	\$ 45,438,654	13%
Albuquerque	115,381,903	575,381,994	20%
Animas	374,433	4,226,766	9%
Artesia	3,255,348	25,674,519	13%
Aztec	3,474,460	22,099,259	16%
Belen	7,440,835	32,872,326	23%
Bernalillo	4,691,263	28,913,443	16%
Bloomfield	3,302,474	23,438,632	14%
Capitan	451,377	4,956,011	9%
Carlsbad	7,647,086	48,729,328	16%
Carrizozo	271,593	2,655,083	10%
Central	8,546,133	68,378,458	12%
Chama Valley	821,677	5,884,478	14%
Cimarron	643,094	5,552,187	12%
Clayton	886,927	7,923,176	11%
Cloudcroft	528,443	4,513,104	12%
Clovis	7,550,003	53,741,247	14%
Cobre	2,346,914	16,677,919	14%
Corona	88,054	1,544,183	6%
Cuba	1,014,652	7,921,344	13%
Deming	3,996,860	35,732,205	11%
Des Moines	156,505	1,943,655	8%
Dexter	1,227,412	9,052,540	14%
Dora	157,355	2,693,396	6%
Dulce	666,341	6,361,146	10%
Elida	92,130	1,413,391	7%
Espanola	4,570,928	41,319,671	11%
Estancia	1,032,825	7,413,598	14%
Eunice	437,586	5,350,555	8%
Farmington	7,846,411	62,212,053	13%
Floyd	224,574	2,826,000	8%
Ft. Sumner	371,599	3,983,465	9%
Gadsden	11,377,066	92,158,219	12%
Gallup	13,357,057	106,763,148	13%
Grady	73,295	1,513,270	5%
Grants	3,210,459	27,228,331	12%
Hagerman	503,309	4,986,420	10%
Hatch	713,175	11,651,829	6%
Hobbs	4,338,275	50,052,470	9%
Hondo Valley	133,126	1,829,953	7%
House	246,709	2,440,658	10%

Exhibit 2A

**Percent of Special Education Budget to Total Budget (General Special Revenue Funds)
by School District FY02**

School District	Special Education Budget	Total Budget	Percentage Special Education Budget
Jal	\$ 374,307	\$ 4,301,397	9%
Jemez Mountain	357,822	6,231,668	6%
Jemez Valley	440,889	5,754,003	8%
Lake Arthur	302,704	2,355,548	13%
Las Cruces	27,421,476	156,512,456	18%
Las Vegas-City	1,797,285	17,752,394	10%
Las Vegas-West	1,659,572	18,920,226	9%
Logan	269,687	3,078,612	9%
Lordsburg	1,312,021	8,131,427	16%
Los Alamos	5,558,803	32,369,167	17%
Los Lunas	10,353,804	60,490,818	17%
Loving	758,028	6,196,750	12%
Lovington	3,156,713	20,644,473	15%
Magdalena	816,376	4,294,000	19%
Maxwell	62,428	1,701,569	4%
Melrose	301,021	3,263,648	9%
Mesa Vista	617,807	5,637,183	11%
Mora	432,746	6,294,423	7%
Moriarty	4,655,945	30,620,181	15%
Mosquero	150,878	1,156,477	13%
Mountainair	671,705	3,838,011	18%
Pecos	1,210,977	9,570,074	13%
Penasco	496,647	7,324,186	7%
Pojoaque	1,632,209	15,823,568	10%
Portales	2,505,750	19,672,112	13%
Quemado	171,955	2,565,131	7%
Questa	474,231	6,385,875	7%
Raton	1,461,535	10,770,379	14%
Reserve	345,523	2,871,902	12%
Rio Rancho	10,260,202	60,374,845	17%
Roswell	11,987,002	68,807,759	17%
Roy	172,776	1,545,815	11%
Ruidoso	2,770,362	19,859,406	14%
San Jon	171,543	2,087,887	8%
Santa Fe	11,647,788	82,360,409	14%
Santa Rosa	860,734	9,284,853	9%
Silver City	3,947,764	26,671,204	15%
Socorro	1,689,191	16,059,551	11%
Springer	285,601	3,143,956	9%
Taos	3,335,035	26,884,494	12%
Tatum	364,112	3,769,865	10%
Texico	426,048	4,777,435	9%

Exhibit 2A

**Percent of Special Education Budget to Total Budget (General Special Revenue Funds)
by School District FY02**

School District	Special Education Budget	Total Budget	Percentage Special Education Students
T or C	\$ 1,702,038	\$ 12,484,945	14%
Tucumcari	1,494,379	9,529,586	16%
Tularosa	1,172,999	9,783,376	12%
Vaughn	147,218	1,286,112	11%
Wagon Mound	488,940	2,562,283	19%
Zuni	2,696,273	21,049,828	13%
Abq-21 Century	107,880	811,300	13%
Abq-Amy Biehl	211,267	1,814,860	12%
Abq-East Mountain	68,830	1,538,728	4%
Abq-Learning Comm	70,182	2,640,644	3%
Abq-Nuestros Valores	47,120	780,777	6%
Abq-P.A.P.A.	85,000	1,257,991	7%
Abq-RFK	81,600	1,233,886	7%
Abq-South Valley	99,200	1,555,450	6%
Abq-Southwest	-	1,092,615	0%
Clayton-Amistad	-	106,781	0%
Jemez-San Diego	73,421	1,475,512	5%
Questa-Red River Valley	-	390,948	0%
Questa-Roots & Wings	-	196,817	0%
Roswell-Sidney Gutierrez	-	318,885	0%
Santa Fe-AT&C	78,875	1,456,358	5%
Santa Fe-Monte del Sol	360,881	1,642,319	22%
Santa Fe-Turquoise Trail	306,681	2,117,709	19%
Socorro-Cottonwood	5,000	825,477	1%
Taos-Anasi	-	261,989	0%
Taos-Municipal	100,135	1,017,302	10%
	356,360,731	2,344,835,699	15%

Exhibit 2B

Percent of Special Education Budget to Total Budget (General Special Revenue Funds) by School District (Highest to Lowest) FY02

School District	Special Education Budget	Total Budget	Percentage Special Education Budget
Belen	\$ 7,440,835	\$ 32,872,326	23%
Santa Fe-Monte del Sol	360,881	1,642,319	22%
Albuquerque	115,381,903	575,381,994	20%
Wagon Mound	488,940	2,562,283	19%
Magdalena	816,376	4,294,000	19%
Las Cruces	27,421,476	156,512,456	18%
Mountainair	671,705	3,838,011	18%
Roswell	11,987,002	68,807,759	17%
Los Alamos	5,558,803	32,369,167	17%
Los Lunas	10,353,804	60,490,818	17%
Rio Rancho	10,260,202	60,374,845	17%
Bernalillo	4,691,263	28,913,443	16%
Lordsburg	1,312,021	8,131,427	16%
Aztec	3,474,460	22,099,259	16%
Carlsbad	7,647,086	48,729,328	16%
Tucumcari	1,494,379	9,529,586	16%
Lovington	3,156,713	20,644,473	15%
Moriarty	4,655,945	30,620,181	15%
Silver City	3,947,764	26,671,204	15%
Santa Fe	11,647,788	82,360,409	14%
Bloomfield	3,302,474	23,438,632	14%
Cobre	2,346,914	16,677,919	14%
Clovis	7,550,003	53,741,247	14%
Chama Valley	821,677	5,884,478	14%
Ruidoso	2,770,362	19,859,406	14%
Estancia	1,032,825	7,413,598	14%
T or C	1,702,038	12,484,945	14%
Raton	1,461,535	10,770,379	14%
Dexter	1,227,412	9,052,540	14%
Abq-21 Century	107,880	811,300	13%
Mosquero	150,878	1,156,477	13%
Lake Arthur	302,704	2,355,548	13%
Alamogordo	5,824,144	45,438,654	13%
Cuba	1,014,652	7,921,344	13%
Zuni	2,696,273	21,049,828	13%
Portales	2,505,750	19,672,112	13%
Artesia	3,255,348	25,674,519	13%
Pecos	1,210,977	9,570,074	13%
Farmington	7,846,411	62,212,053	13%
Gallup	13,357,057	106,763,148	13%
Central	8,546,133	68,378,458	12%
Taos	3,335,035	26,884,494	12%

Exhibit 2B

Percent of Special Education Budget to Total Budget (General Special Revenue Funds) by School District (Highest to Lowest) FY02

School District	Special Education Budget	Total Budget	Percentage Special Education Budget
Tularosa	\$ 1,172,999	\$ 9,783,376	12%
Grants	3,210,459	27,228,331	12%
Cloudcroft	528,443	4,513,104	12%
Abq-Amy Biehl	211,267	1,814,860	12%
Cimarron	643,094	5,552,187	12%
Vaughn	147,218	1,286,112	11%
Clayton	886,927	7,923,176	11%
Deming	3,996,860	35,732,205	11%
Roy	172,776	1,545,815	11%
Espanola	4,570,928	41,319,671	11%
Mesa Vista	617,807	5,637,183	11%
Socorro	1,689,191	16,059,551	11%
Dulce	666,341	6,361,146	10%
Pojoaque	1,632,209	15,823,568	10%
Carrizozo	271,593	2,655,083	10%
Las Vegas-City	1,797,285	17,752,394	10%
House	246,709	2,440,658	10%
Hagerman	503,309	4,986,420	10%
Taos-Municipal	100,135	1,017,302	10%
Tatum	364,112	3,769,865	10%
Ft. Sumner	371,599	3,983,465	9%
Santa Rosa	860,734	9,284,853	9%
Melrose	301,021	3,263,648	9%
Capitan	451,377	4,956,011	9%
Springer	285,601	3,143,956	9%
Texico	426,048	4,777,435	9%
Animas	374,433	4,226,766	9%
Las Vegas-West	1,659,572	18,920,226	9%
Logan	269,687	3,078,612	9%
Jal	374,307	4,301,397	9%
Hobbs	4,338,275	50,052,470	9%
San Jon	171,543	2,087,887	8%
Eunice	437,586	5,350,555	8%
Des Moines	156,505	1,943,655	8%
Floyd	224,574	2,826,000	8%
Jemez Valley	440,889	5,754,003	8%
Questa	474,231	6,385,875	7%
Hondo Valley	133,126	1,829,953	7%
Mora	432,746	6,294,423	7%
Penasco	496,647	7,324,186	7%
Abq-P.A.P.A.	85,000	1,257,991	7%
Quemado	171,955	2,565,131	7%
Abq-RFK	81,600	1,233,886	7%
Elida	92,130	1,413,391	7%
Abq-South Valley	99,200	1,555,450	6%
Hatch	713,175	11,651,829	6%
Abq-Nuestros Valores	47,120	780,777	6%
Dora	157,355	2,693,396	6%
Jemez Mountain	357,822	6,231,668	6%

Exhibit 2B

Percent of Special Education Budget to Total Budget (General Special Revenue Funds) by School District (Highest to Lowest) FY02

School District	Special Education Budget	Total Budget	Percentage Special Education Budget
Corona	\$ 88,054	\$ 1,544,183	6%
Santa Fe-AT&C	78,875	1,456,358	5%
Jemez-San Diego	73,421	1,475,512	5%
Grady	73,295	1,513,270	5%
Abq-East Mountain	68,830	1,538,728	4%
Maxwell	62,428	1,701,569	4%
Santa Fe-Turquoise Trail	306,681	2,117,709	18%
Abq-Learning Comm	70,182	2,640,644	3%
Socorro-Cottonwood	5,000	825,477	1%
Taos-Anasi	-	261,989	0%
Roswell-Sidney Gutierrez	-	318,885	0%
Questa-Roots & Wings	-	196,817	0%
Questa-Red River Valley	-	390,948	0%
Clayton-Amistad	-	106,781	0%
Abq-Southwest	-	1,092,615	0%
	356,360,731	2,344,835,699	15%

Federal Definitions of Disabilities

Autism (AU)

A developmental disability significantly affecting verbal and nonverbal communication and social interaction that adversely affects a child's educational performance. Characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences.

Deaf-blindness (DB)

Concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Deafness (HH)

A hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.

Developmentally Delayed (DD)

A child aged 3 through 9 who is experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development.

Emotional Disturbance (ED)

A condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance (the term includes schizophrenia but does not apply to children who are socially maladjusted):

- (A) An inability to learn that cannot be explained by intellectual, sensory, or health factors.
- (B) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers.
- (C) Inappropriate types of behavior or feelings under normal circumstances.
- (D) A general pervasive mood of unhappiness or depression.
- (E) A tendency to develop physical symptoms or fears associated with personal or school problems.

Hearing Impairment (HI)

An impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness in

this section.

Mental Retardation (MR)

Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

Multiple Disabilities (MD)

Concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. The term does not include deaf-blindness.

Orthopedic Impairment (OI)

A severe orthopedic impairment that adversely affects a child's educational performance. The term includes impairments caused by congenital anomaly, impairments caused by disease, and impairments from other causes.

Other Health Impairments (OHI)

Having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the education environment that -

- (A) Is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia.
- (B) Adversely affects a child's educational performance.

Specific Learning Disability (SLD)

A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including conditions such as perceptual disabilities, brain injury minimal brain dysfunction, dyslexia, and developmental aphasia. The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.

Speech or Language Impairment (SL)

A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Traumatic Brain Injury (TBI)

An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a

child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention, reasoning; abstract thinking; judgment; problem-solving; sensory; perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Visual Impairment (VI)

An impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

Number and Percent of Special Education Students Considered Limited English Proficient (LEP)

SY01

Disability	ASIAN			AFRICAN AMERICAN			CAUCASIAN			HISPANIC			NATIVE AMERICAN			Grand Total
	Total in Special Education	Number LEP	Percent LEP	Total in Special Education	Number LEP	Percent LEP	Total in Special Education	Number LEP	Percent LEP	Total in Special Education	Number LEP	Percent LEP	Total in Special Education	Number LEP	Percent LEP	
LAU	3			8			139	6		70	13		14	5		234
	1						2			11	2		5	1		
	27	2	7.41%	121	2	1.65%	1734	20	1.15%	2385	427	17.90%	623	55	10.43%	
	10	1	10.00%	168	5	2.98%	1275	37	2.90%	1394	390	27.98%	286	67	33.92%	3133
	333	15	4.50%	201	2	1.00%	8220	49	0.60%	3189	331	10.38%	347	53	15.27%	12290
	7		0.00%	14	1	7.14%	187	1	0.53%	259	48	18.53%	64	15	23.44%	531
	6		0.00%	38		0.00%	410	5	1.95%	496	95	19.15%	191	79	41.36%	1141
	13	5	38.46%	58	1	1.47%	493	17	3.45%	1112	318	28.60%	239	109	45.61%	1925
	7	1	14.29%	61	4	6.56%	1037	36	3.47%	863	260	30.13%	177	76	42.94%	2145
	4		0.00%	8		0.00%	112		0.00%	145	38	26.21%	10	5	50.00%	279
	75	9	12.00%	244	12	4.92%	3616	92	2.54%	5397	1755	32.52%	1146	591	51.57%	10478
	127	38	29.92%	956	42	4.39%	6948	290	3.24%	15371	5391	35.07%	3491	1862	54.20%	28893
	3			10			74			111	37		27	10		225
	2			6			53			98	22		24	12		193
	618	71	11.49%	1903	69	3.63%	26310	556	2.11%	30901	9127	29.54%	6644	3010	45.30%	66376

SY02

Disability	ASIAN			AFRICAN AMERICAN			CAUCASIAN			HISPANIC			NATIVE AMERICAN			Grand Total
	Total in Special Education	Number LEP	Percent LEP	Total in Special Education	Number LEP	Percent LEP	Total in Special Education	Number LEP	Percent LEP	Total in Special Education	Number LEP	Percent LEP	Total in Special Education	Number LEP	Percent LEP	
LAU	6			9			170	8		84	13	15.45%	14	6	42.86%	283
							1			5	1	20.00%	3		0.00%	9
	37	4	10.81%	120		0.00%	1567	17	1.08%	2567	391	15.23%	703	139	19.77%	4994
	6		0.00%	145	7	4.83%	1178	44	3.74%	1257	326	25.93%	273	102	37.36%	2899
	327	13	3.98%	200	1	0.50%	7634	41	0.52%	3307	282	8.53%	329	43	13.07%	11987
	5		0.00%	14	1	7.14%	180	3	1.67%	264	52	19.70%	68	23	33.82%	531
	7		0.00%	33		0.00%	425	6	1.41%	496	85	17.14%	191	74	38.74%	1152
	15	5	33.33%	62	1	1.61%	473	15	3.17%	1078	320	29.68%	223	102	45.74%	1861
	8	1	12.50%	54	2	3.70%	1108	22	1.99%	909	257	26.27%	193	76	39.36%	2272
	4		0.00%	8		0.00%	104		0.00%	138	39	28.26%	8	5	62.50%	262
	91	6	6.59%	253	9	3.56%	3349	86	2.57%	5110	1473	28.83%	1123	552	49.15%	9926
	116	27	23.28%	918	35	3.81%	8998	257	3.10%	15041	5004	33.27%	3557	1853	52.36%	27930
	2			11			74	2	2.70%	111	36	32.43%	23	10	43.48%	221
	2			5			61			90	21	23.33%	29	14	48.28%	187
	626	55	8.95%	1832	56	3.06%	24822	501	2.02%	30457	8300	27.25%	6737	3088	44.66%	64474

Does not include Other and Not Reported

Membership State Equaliza
Guarantee Funding
Estimate

PENASCO # 77

2000-2001 Averaged data from 40D, 80D, 120D

3/21/2001 11:50:09 AM

Membership Averaged

Grade	3Y SpEd	4Y SpEd	C Service	D Service	Basic	Grade Mem Total	Grade FTE Total	Cost Index	Program Units
3Y	1.00					1.00	0.50	1.440	
4Y		4.67				4.67	2.33	1.440	
KN			0.00	0.00	45.33	45.33	22.67	1.440	
01			0.00	1.00	49.33	50.33	50.33	1.200	60.396
02			0.00	1.00	63.00	64.00	64.00	1.180	75.520
03			1.00	1.00	48.00	50.00	50.00	1.180	59.000
04			0.00	2.33	56.67	59.00	59.00	1.045	61.655
05			0.00	2.00	56.00	58.00	58.00	1.045	60.610
06			2.00	0.00	46.33	48.33	48.33	1.045	50.505
07			0.33	1.33	46.67	48.33	48.33	1.250	60.413
08			2.00	0.33	44.67	47.00	47.00	1.250	58.750
09			2.00	0.00	45.67	47.67	47.67	1.250	59.588
10			2.00	2.00	47.00	51.00	51.00	1.250	63.750
11			1.00	0.00	39.33	40.33	40.33	1.250	50.413
12			0.00	0.00	45.33	45.33	45.33	1.250	56.663
ECE Totals	1.00	4.67	0.00	0.00	45.33	51.00	25.50	1.440	36.720
1-12 Totals			10.33	10.99	588.00	609.32	609.32		717.263
	1.00	4.67				660.32	634.82		
Sub-Total Membership Program Units									753.983

Special Education - Avg.

Student Group	Membership	Cost Index	Program Units
C & C-Gifted - not 3Y/4Y	10.33	1.000	10.330
D & D-Gifted - not 3Y/4Y	11.00	2.000	22.000
3Y Special Ed	1.00	2.000	2.000
4Y Special Ed	4.67	2.000	9.340
A/B MEM (Reg/Gifted)	52.00	0.700	36.400
Sub-Total Special Ed Student Program Units			80.070

Special Ed Related Service	Avg. Sum FTE	Cost Index	Program Units
Ancillary FTE	1.93	25.0	48.250

Bilingual Education Avg

Hours	Mem	FTE	Cost Index	Program Units
2	168.67	56.22		
3	462.00	231.00		
	630.67	287.22	0.50	143.610

Size Adjustment Units

Size Factor	Program Units
District Size Adjustment	80.111
Rural Size Adjustment	0.000

**Membership State Equalize
Guarantee Funding
Estimate**

PENASCO # 77

2000-2001 Averaged data from 40D, 80D, 120D

3/21/2001 11:50:09 AM

Elementary/Jr. High Size - Avg.

(For eligible schools with MEM less than 200.
MEM = Basic 1-9 and Early Childhood FTE. Special Ed is excluded.)

School Name	School Code	Mem	Program Units
PENASCO ELEMENTARY	121	342.01	0.000
PENASCO MIDDLE	128	91.33	49.624

Total Elementary/Mid School/Junior High Units: 49.624

Senior High Size - Avg.

(For eligible schools with MEM less than 400. MEM = Basic 7-12. Special Ed is excluded.)

School Name	School Code	Mem	Program Units
PENASCO HIGH	123	177.33	157.945

Total Senior High School Units: 157.945

At Risk Units

At Risk Index	Mem	At Risk Units
0.1408		

strict Factors / Credits

T And E:	1.189	June Tax Credits:	\$0.00
Eligible Rural High Schools:	0	July-May Tax Credits:	\$0.00
At Risk Index:	0.1408	Local Tax Credits total:	\$0.00
Current Yr Mem Projection:	627.5	June Credits Impact Aid:	\$0.00
Current Yr Units Projection:	1,665.875	July-May Credits Impact Aid:	\$0.00
		Federal Impact Aid total:	\$0.00
		June Credits Forest:	\$0.00
		July-May Credits Forest:	\$0.00
		Forest Reserve Credits total:	\$0.00
		Credits subtotal:	
		Non-Categorical Revenue Credits	\$0.00

Membership State Equalization
Guarantee Funding
Estimate

PENASCO # 77

2000-2001 Averaged data from 40D, 80D, 120D

3/21/2001 11:50:09 AM

Summary of State Equalization Guarantee Calculation

Subtotal Membership Program Units:	753.983
Subtotal Special Ed Student Program Units:	80.070
Special Ed Ancillary Program Units:	48.250
Bilingual Program Units:	143.610
Total Membership Program Units:	1,025.913
T and E Index:	1.189
Adjusted Program Units:	1219.811
District Size Units:	80.111
Elem Jr High Size:	49.624
Senior High Size:	157.945
Rural Isolation:	0.000
At Risk Units:	89.383
Growth Units:	0.000
Total Program Units:	1,596.874
Save Harmless Units:	0.000
Grand Total Units:	1,596.874
Unit Value:	\$2,647.56
Program Cost:	\$4,227,819.73
Non-Categorical Revenue Credits:	\$0.00
State Equalization Guarantee:	\$4,227,819.73